



# **LAWs**

OF A

## **GENERAL NATURE**

PASSED AND PUBLISHED AT THE TWENTY-THIRD SESSION

OF THE

**GENERAL ASSEMBLY**

**OF THE STATE OF INDIANA.**

HELD AT INDIANAPOLIS, ON THE FIRST MONDAY IN DECEMBER, ONE THOUSAND  
EIGHT HUNDRED AND THIRTY-EIGHT.

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**BY AUTHORITY.**

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INDIANAPOLIS:

DOUGLASS & NOEL, STATE PRINTERS.

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1839.

# LAWS

OF A

## GENERAL NATURE.

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### CHAPTER 1.

AN ACT to modify the plan of carrying on the public works, and to secure their ultimate completion, and amendatory of an act, entitled, "an act to provide for a general system of internal improvement;" approved January 27, 1836.

[APPROVED, FEBRUARY 8, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana.* That so much of the act to which this is an amendment, and of all other laws of the state, as relates to the number of the state board of internal improvement, and to the representative principle recognized in the organization of the said board, be, and the same is hereby repealed.

SEC. 2. That the present board of internal improvement be, and the same is hereby dissolved provided, that the members of said board shall, for the purpose of settling up their accounts with the state, and for other purposes connected with their present duties, remain in office until the first Monday in March next, and until their successors are elected and qualified.

SEC. 3. That from and after the first Monday of March next, the state board of internal improvement shall consist of three members, to be selected without reference to location.

SEC. 4. The members of said board shall be elected by joint *viva voce* vote of both Houses of the General Assembly; <sup>Board consist of 3 members.</sup> Provided that a majority of the votes given shall elect.

SEC. 5. The board of internal improvement to be elected during the present session of the General Assembly, according to the provisions of this act, shall serve for the following terms, to wit: one member shall serve for three years; one member shall serve for two years, and one member shall serve for one year; all from and after the first day of March next. And each member of the board of internal improvement, who shall be elected at any session of the General Assembly subsequent to the present session, shall hold his office for and during the term of three years, unless it be to fill a vacancy. *Provided* that the <sup>Term of service.</sup> <sup>Proviso.</sup>

respective terms of service of the members elect shall be determined immediately, after the ballottings by lots, to be drawn by the Secretary of the Senate and the Clerk of the House.— And, *Provided*, that the Legislature may at any time remove a member of the board by joint resolution.

Sec. 6. That there shall be a chief engineer of the state to be elected, in the same manner as the members of the board, who shall hold his office during three years, subject however to removal by joint resolution. And it shall be his duty to nominate for the approval of the board, all the necessary resident and assistant engineers, and other officers immediately connected with his branch of the public service.

Chief engineer,  
how elected &c.

Vacancies in  
board, how fill-  
ed.

Sec. 7. In case of a vacancy in said board, or of the office of said chief engineer caused by death, or resignation, or in any other way at any time when the General Assembly is not in session, the vacancy shall be filled by appointment of the Governor; and such member or chief engineer so appointed, shall serve until the first Monday in March, after the session of the General Assembly next following his appointment. But if, at the time of the death or resignation of a member of said board, or of said chief engineer, the legislature be in session, then the vacancy shall be filled by joint *viva voce* vote of both houses.

Sec. 8. The state board of internal improvement hereby constituted shall discharge all the duties and possess all the powers, and be subject to all the regulations and restrictions required of, or conferred on, the former state board of internal improvement, except in as far as the same are modified or repealed in this act, or in any other law.

Sec. 9. The members of the board of internal improvement and the chief engineer shall, at all times, continue in office, until their successors are appointed.

To continue in  
office until suc-  
cessors are ap-  
pointed.

Engineer de-  
partment, how  
organized, &c.

Sec. 10. The said board shall organize the Engineer department for the superintendence of the public works; and shall appoint all other necessary officers, collectors of tolls, &c. and shall certify the same to the Governor, Auditor and Treasurer; and the said board shall establish rates of wages for engineers, and all other officers appointed by them under this act. *Provided*, That in the appointment and payment of such officers, the said board shall have reference, first to the securing of the faithful and efficient discharge of the duties assigned to the said officers, and secondly, to the strictest economy in wages and all other expenses, consistent with the true interests of the state, and the vigorous prosecution of the public works.

Sec. 11. The members of the board shall meet at Indianapolis on the first Monday of March, 1839, and after taking the usual oath of office and organizing, by appointing one of their number President of the board, shall enter on the discharge of their duties. The board shall also appoint a secretary, whose duty it shall be, in addition to the other duties pertaining to his office, to keep a book, in which shall be entered under proper heads for each work, or each division of any work, the amount of each payment made on said work, as shown by the abstract of the acting commissioner, designating separately the expen-

ditures for construction, for superintendence, and for damages, so as to show, at any time, the aggregate expenditure on each line; a statement of which aggregate expenditure shall be furnished at the end of every quarter of the year, to each member of the board, to the Governor of state, and the chief engineer.

Sec. 12. It shall be the duty of the state board of internal improvement to assume the general control and direction of all the public works of the state; to decide how rapidly they should progress; to determine the manner and time of placing the various works under contract; and also the particular portion and amount of work to be let out: *Provided that*, in all such matters, they shall be governed by the general principles hereinafter prescribed for their guidance.

Sec. 13. In carrying steadily out to their final completion the public works of this state, the board, after taking a careful review of the probable ultimate expense of the entire system and of each work; the resources of the state; the condition of the money market, and the market prices of the Indiana state bonds, shall at their first meeting, (or as soon thereafter as the necessary facts and estimates can be obtained and examined by them,) determine the amount of money which may wisely and beneficially be expended annually on the public works of Indiana, without affecting injuriously, the agricultural interests of the state by oppressive taxation or by inducing a serious competition in the price of farming labor. *Provided, however, that* the expenditures for the public works shall not exceed one million and a half of dollars, annually, including every expense whatever, connected with internal improvements; unless such annual appropriations be expressly increased by law hereafter; and provided further, that the board, in their general estimates of expenditure and resources, shall never admit or countenance the ruinous expedient of continuing to borrow additional capital to pay interest on previous loans.

Sec. 14. In deciding which work or portions of work, shall be put under contract, and which shall be first urged to completion, it shall be the duty of the board, after carefully examining the subject in all its bearings, to concentrate future expenditures on such works and portions of works as, in their opinion, will best subserve the general convenience of the citizens and conduce to the agricultural and commercial improvement of the state; and as will be likely to yield a revenue to the state at the earliest day, so as to relieve the people from taxation without jeopardizing the final completion of the works provided for in the bill to which this is amendatory. And in furtherance of the same object, the board shall, whenever they are of opinion that the interests of the state demand it, with the consent of the contractor, cancel, compound, or transfer contracts from one portion of a work to another, or from one work to another, in cases where they consider the expenditure, for the present, an unprofitable outlay of public funds. And in all cases, in which contracts may be altered as above, the board shall offer to the contractors in question, other contracts on such portions of the public works as are to be prosecuted, at such prices as a competent engineer

Board to super-  
intend works.

General duty of  
board,

Expenditure  
restricted.

Board, how to  
decide as to  
completion of  
works.

Board, when to  
meet.

To appoint sec-  
retary, &c.

May cancel contracts.

may consider as profitable and advantageous to the contractor, as the contracts that have been altered, taking into view the expense and inconvenience of transferring his forces, if he shall have commenced operations. Provided that the transfers of contractors authorized by this section shall not impair or affect the original specific appropriations to the several works.

Board shall attend lettings.

Sec. 15. The board of internal improvement, or at least a majority of their number, shall attend all lettings of public works and award all contracts on the same.

Vote by ayes and noes.

Sec. 16. The votes of said board shall always be by ayes and noes and shall be recorded in their Journal.

Annual report, how made.

Sec. 17. The annual report of the board to the legislature shall be made at the earliest practicable period of the session, but not later than the third Monday of December, and shall each year contain a general statement of the entire amount theretofore expended for internal improvement; an estimate of work yet to be done; the amount of unfinished contracts; the amount of new contracts, during the year last past; the balance of interest, if any, remaining unpaid or unprovided for after deducting from the total amount of interest paid out by the state, the revenue from every source applicable to the liquidation of said interests; also furnishing a full exhibit of the operations during the year, and containing a statement of the names of all officers by them appointed, the kind of service required of them, together with the amount of their compensation; and containing further, such suggestions in regard to the general policy of the state in matters connected with the management and prosecution of the works, and the ways and means required to complete them, as to the board may seem important and worthy the consideration of the legislature.

Duties of engineer department.

Sec. 18. It shall be the duty of the engineer department to make all necessary surveys; to locate and superintend the execution of the various public works, under the general orders of the board; to keep the accounts of all work performed on the several sections, and to determine the sums which may be due to each contractor, according to the terms of the contract at the completion of his job. The resident engineer or other engineer authorized by the board, shall make out accurate estimates once in six weeks or two months, as the board may direct, of the value of work performed by each contractor, and shall certify the same to the board. The chief engineer of the state shall have the immediate direction and control of the engineer corps, subject however to the general orders of the board; shall direct the necessary surveys on each line, and shall examine and approve all locations before the lines are put under contract; and shall prepare and furnish to the several lines, plans of all the mechanical structures, together with specifications of the manner of construction, so as to preserve system and uniformity of plan throughout the state.

Disbursements how made.

Sec. 19. All disbursements of money on account of the construction and superintendence of the public works, shall be made by the board of internal improvement, through the acting commissioner, in the following manner, to wit: at intervals of

six weeks or two months, as may be directed by the board, payments shall be made by the acting commissioner to contractors on the certified estimates of the resident engineer as hereinafter provided; such payments to be made by check on the officer or agent holding the state funds; which check shall be accompanied by the estimate of the engineer on which it is based, and shall be for ninety per cent. only of the amount of said estimate, until the job shall be certified by the engineer to be fully completed, when the check shall be for the total balance due on said contract at contract prices: *Provided*, that all such checks shall be endorsed with a certificate of registry, signed by the same engineer who may have signed the estimate. And all checks drawn by said acting commissioner, in favor of any member of the board, engineer or other officer, for salary or wages, shall state on its face the nature and term of service for which it is to be issued, and shall, in all cases, be in accordance with the rates of pay established by the board or by law. And in cases where it may be necessary to place a small amount in the hands of any officer of the state in advance, as for the expenses of a locating party, or other minor expenses incidental to the service, such advance payment shall be made as may be hereafter provided by law; or in default of an express law, then by check of the acting commissioner, in his own favor, accompanied with his certificate that such advance payment is necessary to meet contingent expenses. *Provided*, however, that the aggregate amount of such advance payments to an acting commissioner, shall at no time exceed two thousand dollars, until a full and satisfactory settlement for the same be made with the board of internal improvement by returning the proper vouchers. *And provided*, that every acting commissioner shall settle with the board at least quarterly, by forwarding to the office of the board an abstract of all payments made, and each payment to be supported by triplicate vouchers, agreeably to a form to be prescribed by the board; and provided further, that all accounts of payments for construction, for superintendence, and for damages, shall be reported by him, and shall be kept distinct from each other; and likewise, that the accounts be so kept as to show at any time the total disbursements on any line of work, separate from other lines. *Provided*, also, that the board shall furnish to the proper officer a list of all rates of compensation to engineers and all other officers in their service, so as to operate as a check on the drafts of the acting commissioner for wages or salary.

Proviso.

Sec. 20. The acting commissioner and the resident engineer shall each keep a full and accurate register, in a book prepared for that purpose, of all estimates and drafts for work done on each section; which registers shall be compared with each other at the close of each payment, at which time also said acting commissioner shall forward to the office of the board an abstract of all payments made by him.

Commissioner and engineer shall keep accounts.

Sec. 21. In case the acting commissioner shall have reason to believe that there is collusion between the contractors and the resident engineer, in regard to any estimate that may be made, the acting commissioner may suspend payments on estimates.

presented to him, he may at his option suspend payment upon the same until he apprise the board of the facts, which it shall be his duty immediately to do.

Officers and agent to report monthly.

No extra allowance to contractors.

Act how construed.

Joint resolution as to Northern canal declared in force.

SEC. 22. It shall be the duty of the officer or agent holding the state funds, to forward every six weeks or two months to the board, a copy of the register of payments made by him on all checks or drafts.

SEC. 23. The board shall make no extra allowance to contractors over and above the sum which may be estimated by the resident engineer, as due under a fair and just construction of the contract: *Provided*, that at every letting of the public works, it shall be the duty of the board to notify all bidders of the same.

SEC. 24. This act shall be taken and considered a public act, and shall be favorably and liberally construed for all beneficial purposes, and shall take effect and be in force from and after its passage.

SEC. 25. The joint resolution, approved, January 16, 1837, relative to the Northern canal, is recognized as a law of the land, in so far as the same provides means for procuring and expending money on said canal.

## CHAPTER II.

AN ACT to amend an act, entitled, an act dividing the State into judicial circuits, and fixing the times for holding courts therein, and for other purposes, approved 10th February 1831.

[APPROVED JANUARY 28, 1839.]

State divided into circuits.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter the counties of Fountain, Warren, Tippecanoe, Clinton, Carroll, White, Jasper, Newton, and Montgomery, shall form and constitute the first judicial circuit; The counties of Floyd, Harrison, Washington, Scott, Jackson, Clark, and Orange, shall form and constitute the second judicial circuit; The counties of Jefferson, Switzerland, Ripley, Jennings, Dearborn, Franklin, and Decatur, shall form and constitute the third judicial circuit; The counties of Posey, Gibson, Vanderburgh, Pike, Dubois, Spencer, Perry, Crawford, and Warrick, shall form and constitute the fourth judicial circuit; The counties of Madison, Hancock, Shelby, Bartholomew, Johnson, Morgan, Hendricks, Boone, Hamilton, and Marion, shall form and constitute the fifth judicial circuit; The counties of Wayne, Union, Fayette, Rush, and Henry, shall form and constitute the sixth judicial circuit; The counties of Knox, Sullivan, Clay, Putnam, Vigo, Parke, and Vermillion, shall form and constitute the seventh judicial circuit; The counties of Cass, Miami, Wabash, Huntington, Whitley, Noble, De Kalb, St. Claren, Lagrange, and Allen, shall form and

constitute the eighth judicial circuit; The counties of Fulton, Marshall, Kosciusko, Elkhart, St. Joseph, Laporte, Porter, and Lake, shall form and constitute the ninth judicial circuit; The counties of Lawrence, Greene, Owen, Monroe, Brown, Martin, and Daviess, shall form and constitute the tenth judicial circuit; The counties of Delaware, Grant, Blackford, Wells, Adams, Jay, and Randolph, shall form and constitute the eleventh judicial circuit.

Sec. 2. The courts in the first judicial circuit shall be held on the days and times following, to wit: in the county of Tippecanoe on the third Mondays of February and August. In the county of Warren on the Mondays succeeding the courts in the county of Tippecanoe. In the county of Fountain on the Mondays succeeding the courts in the county of Warren. In the county of Montgomery on the Mondays succeeding the courts in the county of Fountain. In the county of Clinton, on the Mondays succeeding the courts in the county of Montgomery. In the county of Carroll on the Mondays succeeding the courts in the county of Clinton. In the county of White on the Mondays succeeding the courts in the county of Carroll. In the county of Jasper on the Fridays succeeding the courts in the county of White. The said courts at each term thereof, in the county of Tippecanoe shall sit eighteen days if the business require it. In the counties of Fountain, Montgomery, and Carroll the courts at each term shall sit twelve days each, if the business require it. In the counties of Warren and Clinton, the said courts shall sit six days, if the business require it. And in the county of White the said courts shall sit four days, if the business require it. And in the county of Jasper, the said courts shall sit at each term as long as the business require it.

Time of holding courts in 1st circuit.

Sec. 3. The courts in the second judicial circuit, shall be held on the days and times following, to wit: In the county of Scott on the third Mondays of February and August. In the county of Jackson on the fourth Mondays in February and August. In the county of Orange on the second Mondays of March and September. In the county of Washington on the third Mondays of March and September. In the county of Harrison on the second Mondays of April and October. In the county of Floyd on the fourth Mondays of April, July, and October. In the county of Clark on the second Mondays in May and November. The court in the county of Scott shall sit at each term six days, if the business require it. In the counties of Jackson, Orange, Washington, and Harrison, shall sit twelve days at each term, if the business require it. In the county of Floyd the court shall sit at the July terms of said court eighteen days, if the business require it; and at the April and October terms thereof, shall sit twelve days, if the business require it. And in the county of Clark the court shall sit at each term thereof, strong as the business shall require it.

Time of holding courts in 2d circuit.

Sec. 4. That the courts in the third judicial circuit shall be held on the days and times following, viz: In the county of Franklin on the third Mondays in February and August. In the county of Decatur

Time of holding courts in 3d circuit.

on the first Mondays of March and September. In the county of Ripley on the second Mondays of March and September. In the county of Jennings on the third Mondays of March and September. In the county of Jefferson on the fourth Monday in March, the second Monday in June, and the fourth Monday in September. In the county of Switzerland on the second Mondays of April and October. In the county of Dearborn on the fourth Mondays of April and October; and the courts may sit eighteen days each term, if the business require it. In the counties of Jefferson, Switzerland, and Franklin, the courts may sit twelve days at each term, if the business require it; and in all other counties of said circuit six days at each term if the business require it.

Time of holding courts in 4th circuit.  
Sec. 5. The courts in the fourth judicial circuit shall sit at the times heretofore provided by law, in the same manner they would have done in case this act had not passed.

Time of holding courts in 5th circuit.  
Sec. 6. The courts in the fifth judicial circuit shall be held on the days and times following, to wit: In the county of Madison on the second Mondays of February and August. In the county of Hancock on the third Mondays of February and August. In the county of Shelby on the fourth Mondays of February and August. In the county of Bartholomew on the first Mondays of March and September. In the county of Johnson on the second Mondays of March and September. In the county of Morgan on the third Mondays of March and September. In the county of Hendricks on the fourth Mondays of March and September. In the county of Boone on the Mondays next succeeding the courts in the county of Hendricks. In the county of Hamilton on the Monday succeeding the courts in the county of Boone. In the county of Marion on the Mondays next succeeding the courts in the county of Hamilton. The said courts shall sit at each term thereof, six days each, if the business require it, except in the county of Marion, where it shall sit as long as the business require it.

Time of holding courts in 6th circuit.  
Sec. 7. The circuit courts shall be held in the sixth judicial circuit on the days following, to wit; In the county of Wayne on the second Monday in February, and the third Monday in June, and the first Monday in November. In the county of Union on the first Mondays in March and September. In the county of Fayette on the third Mondays in March and September. In the county of Rush on the first Mondays in April and October. In the county of Henry on the fourth Monday in April and third Monday in October; and the courts shall sit twelve days if the business shall require it, except the February term, in the county of Wayne, the April term in the county of Rush, which shall continue in session eighteen days each, if the business shall require it.

Time of holding courts in 7th circuit.  
Sec. 8. The circuit courts in the seventh judicial circuit shall be held on the days and times following, to wit: In the county of Parke on the last Monday of February and August. In the county of Vermillion on the second Mondays of March and September. In the county of Knox on the third Mondays of March and September. In the county of Sullivan

on the Mondays next preceding the courts in the county of Knox. In the county of Clay on the Mondays next succeeding the courts in the county of Sullivan. In the county of Putnam on the Mondays next succeeding the courts in the county of Clay. And in the county of Vigo on the Mondays next succeeding the courts in the county of Putnam. In the counties of Parke, Vermillion, Knox, and Putnam, the said courts shall at each term thereof, sit twelve days each, if the business thereof require it; and in the counties of Sullivan and Clay the courts shall sit at each term six days each, if the business require it; and in the county of Vigo the said courts shall sit at each term as long as the business thereof require it.

Time of holding courts in 8th circuit.  
Sec. 9. The courts in the eighth judicial circuit shall be held as follows, viz: In the county of Cass, on the third Mondays in February and August. In the county of Miami, on the first Mondays of March and September. In the county of Wabash, on the second Mondays in March and September. In the county of Huntington, on the third Mondays in March and September. In the county of Allen, on the fourth Mondays in March and September. In the county of Whitley on the Tuesdays succeeding the courts in Allen county. In the county of Noble on the Mondays succeeding the courts in Whitley county. In the county of Lagrange, on the Mondays succeeding the courts in Noble county. In the county of Steuben, on the Tuesdays succeeding the courts in Lagrange. And in the county of DeKalb on the Tuesdays succeeding the courts in Steuben county. The courts shall sit in the counties of Allen and Cass at each term two weeks, if the business require it. In the counties of Wabash, Huntington and Lagrange, six days if the business require it. In the counties of Noble, Whitley, DeKalb, and Steuben, five days, if the business require it.

Time of holding courts in 9th circuit.  
Sec. 10. That the circuit courts of the several counties in the ninth judicial circuit of the state of Indiana, shall be held on the days and at the times following, to wit: In the county of Fulton, on the first Mondays of March and September. In the county of Marshall, on the second Mondays of March and September. In the county of Kosciusko, on the third Mondays of March and September. In the county of Elkhart on the fourth Mondays of March and September. In the county of St. Joseph on the first Mondays of April and October. In the county of Porter on the third Mondays of April and October. In the county of Lake, on the fourth Mondays of April and October. In the county of Laporte on the first Mondays of May and November. Each of said courts shall sit one week, if the business require it, except the circuit courts in the county of St. Joseph, which shall sit two weeks if the business require it, and except also in the county of Laporte, where the courts shall sit as long as the business may require it.

Time of holding courts in 10th circuit.  
Sec. 11. The circuit courts of the tenth judicial circuit shall be held as follows, viz: In the county of Brown, on the first Mondays of March and September. In the county of Monroe, on the second Mondays of March and September. In the county of Owen, on the fourth Mondays of March and

and September. In the county of Greene, on the second Mondays of April and October. In the county of Daviess, on the fourth Mondays of April and October. In the county of Martin, on the second Mondays of May and November. In the county of Lawrence, on the third Mondays of May and November. And the several courts in the tenth judicial circuit to be holden as above, shall each sit twelve days, if the business require it, except the courts in the county of Brown and Martin, which shall sit six days if the business require it.

*Time of holding courts in 11th circuit.*

Sec. 12. The courts in the eleventh judicial circuit shall be holden as follows, to wit: In the county of Delaware, on the first Mondays in March and September. In the county of Grant, on the third Mondays in March and September. In the county of Blackford, on the fourth Mondays of March and September. In the county of Wells, on the Mondays succeeding the courts in Blackford. In the county of Adams, on the Mondays succeeding the courts of Wells. In the county of Jay, on the Mondays succeeding the courts of Adams. In the county of Randolph, on the Mondays succeeding the courts in Jay. And the courts in the counties of Delaware and Randolph, shall sit twelve days, if the business require it, at each term thereof, and in each of the other counties one week each, if the business require it.

*Writs &c., how made returnable.*

Sec. 13. All writs, subpœnas, veniras, rules, orders of court, recognizances, and all process whatsoever, which may have issued from any circuit court, in said counties, since the last sitting thereof, or which may hereafter issue, previous to the taking effect of this act, in the several counties in said circuits, shall be deemed and taken and are hereby made returnable to the first day of the first term of the several circuit courts to be holden by virtue of this act; and all suits, pleas, plaints, prosecutions, recognizances, actions, motions, rules, or other proceedings or which hereafter shall be pending prior to the taking effect of this act as aforesaid, shall be taken up and acted upon at the time of such court to be holden under this act, and be disposed of in the same manner, as if no alteration had been made in the times of holding such courts.

Sec. 14. It shall be the duty of the Secretary of State to forward immediately to each of the clerks in the several counties a copy of this act.

This act to be in force from and after its passage, and to be published in the Indiana Journal.

### CHAPTER III.

AN ACT, supplemental to an act, to amend an act, entitled, "an act dividing the state into judicial circuits and fixing the times for holding courts therein;" approved January 23d, 1837.

[APPROVED, FEBRUARY 9, 1839.]

Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the circuit courts of the following counties of the fifth judicial circuit for the spring term for the year 1839, shall be holden as follows, to wit: In the county of Hendricks on the fourth Monday of March; in the county of Boone on the second Monday of April; in the county of Hamilton, on the third Monday of April; in the county of Shelby on the fourth Monday of April; and in the county of Marion on the Monday next succeeding the court of Shelby.

Sec. 2. The court in the county of Hendricks shall sit twelve days if the business thereof requires it, and the court in the counties of Boone, Hamilton, and Shelby, shall sit six days each if the business thereof require it, and in the county of Marion the court shall sit as long as the business thereof require it.

Sec. 3. All process made returnable to any of the circuit courts of the respective counties aforesaid to the times heretofore fixed for the holding of the sessions thereof, shall be and the same are hereby declared and made returnable to the first days of the terms of said courts as fixed by this act: and all parties, persons and officers are hereby required to take notice of the changes in the terms of the courts, and the courts doing county business, and probate courts, and all the transaction of business, and the discharge of all duties official or personal shall be postponed or accelerated to the time or times to which by this law the terms of such courts may be postponed or accelerated.

Sec. 4. This act to take effect and be in force from and after its publication in the Indiana Journal.

Any law in the act to which this is a supplement or any other law to the contrary notwithstanding.

### CHAPTER IV.

AN ACT amendatory of an act, entitled, an act to amend an act, entitled, "an act to provide for a general system of internal improvement;" approved, January 27th, 1836, approved, February 17, 1838.

[APPROVED, JANUARY 23, 1839.]

Whereas, an error has occurred in the fifth section of the above mentioned act, by inserting the word "board," in the place of the word "clerk," by which the act in part is rendered unmeaning;—Therefore,

*Be it enacted by the General Assembly of the State of Indiana,* That the word "board," in the above mentioned act is hereby declared a misprint, and the word, "clerk," is hereby substituted for it, so that the duty of appointing of an appraiser to act with the appraiser appointed by the acting commissioner on behalf of the state, to value damage occasioned by taking materials for the construction of the public works, shall be performed by the clerk of the circuit court of the county in which the damage complained of shall have happened.

This act shall be in force and take effect from and after its passage, and to that end shall be published in the Indiana Democrat and Journal.

## CHAPTER V.

A joint resolution in relation to the ninth judicial circuit.

[APPROVED, FEBRUARY 14, 1839.]

*Be it resolved by the General Assembly of the State of Indiana,* That all that part of an act, entitled, an act to amend an act, entitled, an act dividing the state into judicial circuits and fixing the time for holding courts therein and for other purposes, approved, February 10, 1831—"approved, January 28, 1839," which relates to the ninth judicial circuit, be and the same is hereby suspended in its operation for the term of one year from and after the passage of this joint resolution, and all laws and parts of laws repealed by the act aforesaid, so far as the same related to the ninth judicial circuit, are hereby declared to be continued in force until the expiration of the time aforesaid, namely for one year from and after the passage of this joint resolution.

This joint resolution to take effect from and after its passage, and shall be published in the Indiana Journal, and a copy of the same shall be furnished to each of the clerks of the ninth judicial circuit immediately by the secretary of state.

## CHAPTER VI.

AN ACT to amend an act entitled, "an act for the prevention of frauds and perjuries, approved, January 24, 1831.

[APPROVED, FEBRUARY 14, 1839.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That the act aforesaid be and the same is

hereby amended, so as the feme coverts over the age of eighteen years, and under the age of twenty-one, may divest themselves of their right of dower to any lands, hereditaments, or tenements, the property of the husband of said feme coverts not acquired by said husband with said feme coverts, provided the parents or surviving parent if one of the same be deceased shall sign a certificate to be attached to any deed or conveyance, divesting said feme covert of her right of dower in the words following:—"I (or we) do solemnly declare, that we believe that the divesture of the right of 'dower, above signed, is for the benefit of the signer of the same, and that it would be prejudicial to her as well as to her husband to be prevented from disposing of the estate above conveyed."

*Sec. 2.* The said certificate shall be signed and sealed before at least two witnesses and shall be recorded with any such deed or conveyance to which the same may be attached.

'This act to be in force from and after its publication in the Indiana Journal.

## CHAPTER VII.

AN ACT providing for the increase of the stock in the State Bank.

[APPROVED, FEBRUARY 12, 1839.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That the commissioners of the sinking fund through the agency of the president of the State Bank or the fund commissioners, are hereby authorized and directed to contract on the part of the state for the loan for one and a half million of dollars for the year 1839, and seven hundred thousand dollars for each of the years 1840, 1841, 1842, 1843 and 1844, at a rate of interest not exceeding six per cent. per annum, redeemable after twenty years and not exceeding thirty-five years, at the pleasure of the state, for the payment of which and the interest thereon, at such time and place as may be agreed upon, the faith of the state is hereby irrevocably pledged; such loan when obtained shall be paid to the commissioners of the sinking fund.

*Sec. 2.* By and with the consent of the president and directors of the State Bank and the president and directors of each branch, the president and directors of the State Bank shall locate or organize not exceeding four additional branches at their discretion at such time and place as they may think the public interest requires, and the payment of stock on the part of individuals shall be in such instalments as said directors may require; and as soon as instalments are paid by individuals an equal amount shall be paid by said directors on the part of the state. But no branch shall go into operation until the sum of eighty thou-

Additional branches may be located.

President shall notify fund comr's.

sand dollars is actually paid in; and the capital in each branch shall eventually be made to be equal to the original capital in each branch, to wit: one hundred and sixty thousand dollars being equally owned by the state and individuals.

**Sec. 3.** So soon as the branches last aforesaid shall be established, the president of the State Bank shall notify the fund commissioners, who shall so soon thereafter as practicable obtain the sum required to be paid by the state in such branch or branches, and in obtaining the same shall be governed in all respects as provided in the act for obtaining the additional stock in the old branches.

**Sec. 4.** All loans and discounts to be made on the state stock authorized by this act shall be distributed as near as may be among the several counties according to the state tax, paid in each; *Provided*, there be applications made by safe and punctual men with requisite endorsers, and *provided further*, that the claims of such persons may be passed when they or any endorser has suffered their paper to be under protest, twenty days; and when new stocks shall be added to any of the branches, under the provisions of this act, counties near and most convenient shall be assigned to it by the commissioners to which discounts shall be extended as is herein provided; and a list of such counties, and the amount of discounts extended to each, shall be kept by each branch subject to the inspection of the citizens of such county.

**Dividends, how applied.** **Sec. 5.** The amount of said loans shall be subscribed and paid over by said commissioner of the sinking fund as bank stock in the branches of the State Bank, at fifty dollars for each share, the dividends on which shall be first applied to the payment of interest on said loans, and the overplus, is hereby appropriated to internal improvements to be applied in the payment of interest on state bonds sold for that purpose in such manner as the legislature may direct.

**Money borrowed in 1839, how applied.** **Sec. 6.** The money required to be borrowed in the year 1839, in the first section of this act, shall be vested in stock equally among the several branches of the State Bank if consented to by said branches. But in case the said branches do not consent, and in all cases of subscription of stock by said commissioners after the year 1839, the said commissioners when they subscribe the same shall distribute it among the several branches of the State Bank in such manner, as shall in their opinion, make the largest amount of profit on fair banking principles; and whenever any branch shall become unsafe or the stock in the same unproductive, it shall be the duty of said commissioner to withdraw said stock, and place the same in some other branch.

**Permanent loans, how made.** **Sec. 7.** That so soon as the first million and a half of dollars herein provided shall be vested in stock it shall be lawful for the branches of the said bank to make loans not exceeding the amount of such additional stock in each branch respectively in manner following, to wit: That is to say, on notes, bills, bonds, or bonds and mortgage to be paid in instalments or on renewals at the rate of ten per cent. of the original principal, at the rate

of seven per cent. per annum in advance if said instalments are paid in periods of time not less than six months, and at the rate of eight per cent. per annum if said instalments are paid in periods of time not less than one year. *Provided*, that at each renewal or payment of an instalment the directors of the respective branches may examine the security, and if in their opinion necessary, may require payment of the whole sum, or additional security.

This act to be in force from and after its passage.

## CHAPTER VIII.

**AN ACT** to amend an act, entitled, "an act organizing circuit courts, and defining their powers and duties;" approved, January 24, 1831.

[APPROVED, FEBRUARY 15, 1839.]

**Sec. 1.** *Be it enacted by the General Assembly of the State of Indiana*, That the associate judges of the circuit courts of this state, shall receive for their services three dollars per day, while attending the courts thereof in that capacity, to be paid by the respective counties in which they reside.

**Sec. 2.** So much of the eighth section of the act aforesaid as comes within the purview of this act, be, and the same is hereby repealed.

This act to be in force from and after its passage.

## CHAPTER IX.

**AN ACT** to provide for empanneling jurors in certain cases in the eleventh judicial circuit.

[APPROVED, FEBRUARY 16, 1839.]

**Sec. 1.** *Be it enacted by the General Assembly of the State of Indiana*, That whenever hereafter any pannel of jurors either grand or petit, within the eleventh judicial circuit, shall be challenged and by the court set aside for any error or informality committed by the county board, in their selection or drawing, or for any error or omission on the part of the clerk in recording the pannel, or otherwise the court may forthwith order the pannel to be filled by the sheriff from among the bystanders or citizens of the county possessing the legal qualification of jurors, and in any and all cases where there has been no jurors selected by the board doing county business, the court may in like manner order the sheriff to summon from the

by-standers or other citizens as aforesaid, either grand or petit jurors, who shall serve as long as the court may require their services.

This act to be in force from and after its passage.

## CHAPTER X.

AN ACT to amend an act, entitled, "an act to regulate the mode of summoning and impanneling grand and petit jurors;" approved, February 17, 1838.

[APPROVED, FEBRUARY 15, 1839.]

Additional jurors to be summoned when courts set three weeks.

Sec. 1. *Be it enacted by the General Assembly of the State of Indiana*, That where the term of any circuit court extends three weeks, twenty-four names shall be selected, drawn, and marked at the same time and in the same manner that jurors are selected, drawn and marked, for each of the other two weeks of the term of such court, and be designated as petit jurors for the third week of said circuit court; and the said jurors for the said third week, shall be empanneled and summoned, and be governed in their duties as is provided in the act to which this is an amendment.

This act to be in force from and after its passage.

## CHAPTER XI.

AN ACT amendatory to an act, entitled, "an act organizing probate courts and defining the powers and duties of executors, administrators, and guardians,

[APPROVED, FEBRUARY 15, 1839.]

Term of judges of probate court, Indiana, &c. *Be it enacted by the General Assembly of the State of Indiana*, That in all cases where the fees of any of the officers of the several probate courts are not defined by law or where there is no specified allowance for any item of service performed by any of such officers, the same fees shall be allowed as are specified by law for similar services in the circuit court: approved, February 17, 1839.

## CHAPTER XII.

AN ACT supplemental to an act, entitled, "an act dividing the state into judicial circuits, and fixing the times of holding courts therein;" approved, Jan. 28, 1839.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the circuit court shall sit in the county of Washington on the fourth Mondays of March and September in each year, and continue in session twelve days, if the business require it.

This act to take effect and be in force from and after its passage.

## CHAPTER XIII.

AN ACT supplemental to an act, to amend an act, entitled, "an act dividing the state into judicial circuits and fixing the times for holding courts therein, and for other purposes;" approved, February 10, 1831, approved, January 28, 1839.

[APPROVED, JANUARY 30, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That the circuit courts in the county of Knox shall be holden on the fourth Monday of March and September, instead of the third Mondays of March and September, as provided by the act to which this act is supplemental.

This act to be in force from and after its passage and publication in the Indiana Journal, and the Secretary of State shall forward a copy of this bill to the counties composing the 7th judicial circuit.

## CHAPTER XIV.

AN ACT pointing out the mode of levying taxes and fixing the per centum for state purposes,

[APPROVED, FEBRUARY 15, 1839.]

Sec 1. *Be it enacted by the General Assembly of the State of Indiana*, That all lands and town lots, with all buildings erected or made thereon or thereto attached, together with all improvements which are the property of any individual or individuals, body corporate or politic, and all personal property, shall be and the same is hereby declared subject to taxation (except such lands and personal property as are exempted from

taxation by the second section of this act,) and the same shall be subject to taxation yearly and every year, to be levied and collected agreeably to law. That the terms "all lands" shall be construed to mean all lands which have been purchased of the general government for five years or upwards, up to the first day of March in each year; all the Wabash and Erie canal lands sold by the state of Indiana, whether the same be paid out by the purchasers or still remain unpaid for; all state, seminary, and saline lands sold by the state, whether the same be paid out by the purchasers, or still remain unpaid for; all Michigan road lands; all individual reserves of land, reserved to or for any individual, Indian or white, by any treaty between the United States and any Indian tribe or nation, after five years from the date of reservation; and all sixteenth or other school sections hereafter sold. And the terms "personal property" in this section, shall be construed to mean and conclude household furniture; all moneys on hand, whether specie or current bank paper; all moneys loaned at interest, whether specie or current bank paper; all goods; all chattels; all public stocks or capital invested in steam boats; all stocks in moneyed corporations; also such portions of the capital of incorporated companies, liable to taxation by the laws of this state, as shall not be vested in real estate; all notes and bonds on solvent persons; all bills of exchange, checks, drafts, or certificates of deposite, provided such notes, bonds, bills, checks, drafts, or certificates have been purchased with money, (except however, such as are purchased by any corporation, the capital of which is taxed by this act,) shall be considered as cash on hand or money loaned at interest, and they shall be so assessed: said terms "personal property" shall also be construed to mean and include all stock in any of the branches of the State Bank of Indiana, other than that owned by the state, and all such stock shall be subject to the same ratio of taxation, as other capital, not exceeding one per cent. including the twenty-five cents on each hundred dollars, set apart by the charter as a permanent school fund: *Provided however*, That said school tax of twenty-five cents on the one hundred dollars of stock shall in no case be considered in lieu of a state and county tax, but such stock may be taxed any sum for state and county purposes, not to exceed seventy-five cents on the one hundred dollars, which added to the school tax of twenty-five cents, make the one per cent. or one dollar on the one hundred dollars, the limit of taxation prescribed by the charter; and the said term of "personal property" shall be construed to mean and include all improvements upon lands either owned by the General Government, the state of Indiana, or any Indian lands within the limits of an organized county, or within territory attached to any organized county, for representative purposes; and, *Provided further*, That from the valuation of any and all lands sold by the state shall be deducted, the balance of purchase money that may be owing the state.

Proviso.

Property exempt from taxation; all lands sold by Congress until the term of five years

shall have expired from the day of sale; all lands with the improvements thereon, not exceeding ten acres, the title of which is vested in any trustee or trustees, body corporate or politic, for the use of, and in trust for, any religious society, and occupied by any such society for the use of a meeting house or burying ground; all lots of ground set apart for school houses, seminaries, academies, or colleges not exceeding twenty acres, with the buildings and improvements thereon, occupied for such purposes; all lands set apart for the use of common schools, and not sold to individuals; all state and county libraries; all libraries and philosophical apparatus belonging to, or used by, any incorporated college or academy or society for the promotion of science; all lands owned by counties in this state, and set apart for the use and support of the poor of such county or counties, not exceeding two hundred acres; all county grounds and county buildings set apart for county purposes; all hospitals, alms-houses, houses for the correction or reformation of offenders, and the real and personal property belonging thereto; and all stocks owned by the state or by literary or charitable institutions; and all the personal property of a widow and orphan children, if it does not exceed two hundred dollars in value, the necessary beds and bedding not exceeding two to each family, and the wearing apparel for each family, one hundred dollars valuation of personal property on each and every tax payer, shall be exempt from taxation.

Sec. 3. That for the purpose of aiding in raising a revenue for county purposes, the board doing county business, shall cause to be assessed and collected on each ferry, not less than two, nor more than fifty dollars; on each license to retail spirituous liquors, not less than twenty-five, nor more than one hundred dollars; on each license to vend foreign merchandize, or foreign or domestic groceries, five dollars for any amount not exceeding one thousand dollars worth of such foreign merchandize, or foreign or domestic groceries; seven dollars and fifty cents, for any amount between one thousand and two thousand dollars; ten dollars, for any amount between two and three thousand dollars; twelve dollars and fifty cents, for any amount between three and four thousand dollars; fifteen dollars for any amount between four and five thousand dollars; seventeen dollars and fifty cents, for any sum between five and six thousand dollars; and twenty dollars, for any sum over six thousand dollars: on each license to vend wooden, brass, and composition clocks, or clocks composed of either of them, not less than twenty nor more than fifty dollars; and the license so obtained shall authorize only one person, he in whose name it shall be procured, to sell under it in only one county, and only for one year; and that any agent vending such clocks, shall be deemed a principal, and shall be compelled to procure a license accordingly: *And provided*, That any hiring, leasing, or other bailment of any such clocks, by any person whatever, shall be deemed a sale, and treated accordingly: And on each travelling caravan, menagerie or other collection of animals, or show of any figures, or circus, or theatre, exhibited or

License for various objects.

performed before the people for reward, not less than ten dollars nor more than fifty dollars for each day's exhibition.

Board to determine the value of license.

Sec. 4. That the value of licenses to retailers of spirituous liquors, and foreign and domestic groceries, tavern keepers, who desire to sell spirituous liquors, venders of foreign merchandize, and venders of wooden and other clocks, may be determined upon by the board doing county business, at any session thereof; and in cases of application for licenses to keep a tavern with the privilege to retail spirituous liquors or to keep a grocery with the privilege to retail spirituous liquors, and foreign and domestic groceries, inquiry shall be made as to the place of residence of the applicant, and to the profits of his business, and after such inquiry, the board shall determine what amount such applicant shall pay for his license, within the limitations of the third section of this act.

Time and mode of assessment.

Sec. 5. The assessor annually between the first day of March and the first Monday in May, shall proceed to take a list of all the taxable inhabitants of his county, and make an assessment of all the property therein made subject to taxation by this act; and for that purpose, he shall by himself or deputy call on each person resident in his county, and request of such person a list of all his real property liable to taxation as aforesaid in his county, carefully placing such real estate in the civil township in which the same is situated, and said assessor shall inform such person what real estate is liable to taxation under the first and second sections of this act; which list of real property written down by such person or said assessor, shall, if the same consist in land, particularly set forth the owner or owners' names, the number of acres of land in each particular tract, section, or sub-division thereof, the range, township, section, quarter section, quarter quarter section, or other sub-division thereof, or the number of the entry, survey, or grant, as the nature of the particular or general authorized surveys may require, so as completely to identify the same; also, if said real estate consist in town in-lots and out-lots, such town lots shall be described so as to set forth the owner's name, the name of the town, the number of the lot, square or block, as the same may be described on the recorded plat of such, in the recorder's office of the county; which town property shall be entered in the civil township of the county, in which it is situated, but in a separate place in such township from the lands of the same: Said assessor shall also require of such person the amount of his corporation stock, other than bank stock, which shall be kept separately from other personal property, and the aggregate amount of all other personal property subject to taxation under this act, which shall likewise be kept in a separate column, opposite the name of such person; the personal property and corporate stock of such persons, shall be entered in a separate place of the assessment roll, but in the civil township in which such person may reside, and in this part of the assessment roll, the polls subject to taxation shall be entered in a column set apart for that purpose; said assessor shall also, within

Mode of assessing tax on stocks.

the time prescribed in this act, call upon the cashier of any branch of the State Bank of Indiana, and procure from him a list of all the stockholders in such branch, and opposite the name, shall be affixed the number of shares, and the amount of such shares, which list of bank stock, he shall enter in a separate part of his assessment roll, under the head of "State Bank Stock," but in the proper civil township of the county in which such branch is situated, and all bank stock shall be assessed and collected in the county in which the branch is located: and should the per cent. levied on such stock for state and county purposes, exceed seventy-five cents on the one hundred dollars, (exclusive of the twenty-five cents on the one hundred dollars for school purposes,) then the county auditor in making out the duplicate shall deduct such excess, in rateable proportions from these taxes, but not otherwise. Should any stockholder fail to pay the amount levied on his bank stock, on or before the first of December annually, the county collector shall execute such bank stock, and be governed in the sale thereof, and receive the like fees as is provided in the 19th and 20th sections of the "act prescribing the duties of the county treasurers." Said county collector shall give to the purchaser a certificate of purchase, which shall state the number of shares purchased, in whose name they were taxed, the amount of taxes for which such sale was made; and said certificate of purchase shall be directed to the cashier of such branch, and if the taxes be not paid to such purchaser within two years from such day of sale, together with ten per cent. interest, and twenty-five per cent. per annum penalty, the said cashier or other proper officer is hereby authorized to transfer the stock so sold to the purchaser, on the proper books of the bank; and said county clerk shall register in a book to be kept by him, such sale of stock, and shall furnish the cashier of the proper bank with a copy of such register of sale within ten days after such sale. Said sale thus made, shall authorize the purchaser to derive all the benefits arising from such stock, and shall give him all the rights which the owner of such stock could at any time have exercised in relation thereto; *Provided however,* That if it should appear to the satisfaction of the treasurer or his successor in office, that said sale was illegal by reason of the taxes having been paid on such stock by the owner or his agent, he shall certify the same to the clerk, who shall give to the purchaser of such stock, an order on the county treasury for the amount paid by him in the purchase thereof. And it shall be the further duty of the assessor at the time he is taking a list of the taxables of his county to enter in a separate book for that purpose to be ruled and provided by the clerk or county auditor in such form as the auditor of state shall direct, the following agricultural statistics, viz: The number of acres of tillable land; the number of acres of wheat, the average number of bushels per acre, the value of wheat per bushel; the number of bushels of corn per acre, the value per bushel; the number of acres of rye, the number of bushels per acre, the value per bushel; the number of acres of oats, the number of bushels per acre, the value per bushel; the number of acres of agricultural Assessors to take statistics agricultural products.

of acres of grass, the value per acre; the value of all the foregoing products when added together; the value of all grains and products transported; the number of horses, cattle, hogs, and sheep, and the average value of each, and total value of all; the value of pork slaughtered in or drove from each county, the growth of such county; the value of sheep, raised or drove or slaughtered; the number of mills, grist, saw and steam, the capital invested in the same; the value annually, of the lumber made; the value of grain manufactured; the number of factories of all other kinds, the amount of capital invested in such factories: and that the foregoing statistical information when returned to the clerk or county auditor with the assessment rolls, shall by said clerk be made out in proper form and forwarded to the Secretary of State on or before the first day of September, who shall embody the same in a general report, to be made by him to the General Assembly the second week of each session; *Provided*, That the board doing county business shall make such additional allowance to the assessor and clerk or county auditor, as may seem just and reasonable.

Secretary of State to make report.

Property in common, &c., how taxed.

Mode of assessing property of absentee.

Sec. 6. If any tract of land, town in-lot or out, shall be owned by different persons in severalty, tenancy in common, or coparcenary, either of them may list his, her, or their respective share or shares, or all may together, as they deem expedient; in which case such tenancy shall be noted on the list, and the whole quantity of land or lots shall also be noted.

Sec. 7. If the owner or owners of any property real or personal, made taxable by this act, shall be absent or unable to give a list when called upon by the assessor, or be a non-resident of the county, it shall be the duty of the assessor to make a list thereof, from the best information he can obtain, therein describing the several pieces of property according to the requisitions of this act, and note the fact of such taking on said list.

Sec. 8. If the owner or owners of property made subject to taxation by this act shall make out and deliver, by the twenty-fifth day of May, (after being called upon and being either absent or unable to give a list) to such assessor, a correct list of his property, in the manner prescribed in this act, the assessor shall receive the same, and correct his valuation thereby, if necessary.

Sec. 9. If any person resident in the county shall refuse to give a list of his or her property made taxable by this act, when called upon by the assessor or his deputy, or shall fraudulently omit to give in any part of his or her property, hereinbefore required to be listed, the assessor shall take a list of such personal property, thus refused or omitted to be listed, from the best information he can obtain; and he shall distinctly note the list so taken in either of these cases, and shall notify such person to attend the board doing county business of such county: and if the person failing, refusing, or omitting to give a correct list as aforesaid, shall not satisfy the board doing county business of his innocence in the premises, they shall order the property so refused or fraudulently omitted to be listed, to be taxed three

fold the proper taxes; and be collected as other taxes; but if the refusal is excused for good cause, or the fraudulent intention in omission is removed, they shall order the property to be taxed as other property of like description.

Sec. 10. The said assessor shall annually, before the first Monday in May, make a true valuation in money of all property made liable to taxation by law, and insert such valuation in the proper column in his list.

1st. The said assessor shall, upon actual view, make a true valuation of all lands, together with the improvements and buildings thereon or affixed thereto, at their full value in money, as he would appraise the same in the payment of a just debt due from a solvent debtor, taking into consideration the fertility and quality of the soil, the vicinity of the same to rail roads, Mc-Adamized, clay, turnpike, state, or county roads, town or villages, navigable rivers, water privileges on the same or in the vicinity of the same, the location of the route of any canal or canals, with any other local advantages of situation: *Provided*, That said assessor shall also value all lands at their cash value, without taking into consideration any improvements that may be made thereon, and this valuation as well as the valuation with improvements, shall be set down in a proper column to be left for that purpose.

2nd. In-lots and out-lots in all towns and villages, with the improvements made thereon or affixed thereto, shall be valued <sup>Town lots.</sup> at their true value in money, taking into consideration all the local advantages of situation—to be valued upon actual view of the premises.

3rd. All personal property shall be given in to the assessor, by the person possessed of the same, at the time of listing the personal property aforesaid; and such personal property shall be valued by such owner: but if the assessor shall not be satisfied with the valuation of such property by the owner, his agent or guardian, or the trustee thereof, he may himself make a valuation of the same, at its cash value, according to the best of his knowledge and information, *Provided*, That bank stock shall not be included in such valuation of personal property. *Provided further*, That all corporation stock, other than bank stock, shall be entered in a column separate from other personal property by said assessor.

4th. All bank stock shall be assessed and collected as provided in the fifth section of this act; the assessor shall place upon his rolls the name of each stockholder in alphabetical order, and so arranged as to show the number of shares owned by each stockholder.

Sec. 11. The assessor may require any person to give in his property made taxable by this act, under oath or affirmation; and where persons are owners of incorporation stock, or stock in steam boats, or moneys loaned out at interest in any of the various ways prescribed by this act, the statement of such owner shall in all cases be upon oath or affirmation.

Assessor may administer oath.

Sec. 12. The assessor or any deputy is hereby authorized to administer all oaths, which may be necessary in the performance of his duty according to the provisions of this act.

Sec. 13. The assessor on demand, shall receive from the president, cashier, secretary, treasurer, or other proper officer or agent of any insurance office, or other incorporated company, whose funds, property, or stock are subject to taxation by this act, a list of all the property, funds, and stock of such company or institution liable to taxation, to which shall be affixed the names of the said company or corporation, and the amount of stock to which each is chargeable; and it is hereby made the duty of the assessor to call for and demand such list on or before the twenty-fifth of April in every year, which list he shall carefully compare with the assessments made by the owners of such stock, when giving in their other property, and if the amount given in by such owner, be less than the stock charged to him on such list, the assessor shall increase the amount on his roll, to the amount of the list.

Assessment rolls, how made out.

Sec. 14. The assessor of each county, before the first Monday in May, annually, shall make out his assessment rolls, taken as before provided, and shall distribute the same under the head of the respective civil townships, wherein the several articles listed shall be subject to taxation, together with the valuation thereof, to wit: All lands and town lots in the township where the same may be situated: all bank stock in the township in which the bank is situated: all other property under the head of the township where the owner may reside; and if any tract of land lying in Clark's Grant, or in the English and French grants, or in Indian reserve, shall be divided by any township line, such land shall be placed under the head of that township in which the greater part thereof lies; and where any tract of land shall be divided by a county line, such land shall belong to that county in which the greater part thereof lies; which said assessment rolls, so made out, the assessor shall deliver to the county clerk, with the original lists taken by him on or before the first Monday in May, annually.

The board doing county business may correct assessments.

Grand levy.

Sec. 15. That the board doing county business, county auditor, and assessor, shall meet at the seat of justice of each county, on the first Monday of June, annually, who shall have power to hear and determine the complaint of any owner of property listed and valued by the assessor subsequent to the preceding first day of March, and shall correct any list or valuation, as they shall deem proper, and shall have power to equalize the valuation made by the assessor, either by adding to, or deducting from his valuation, such sum as to them, or a majority of them, shall appear just and equitable.

Sec. 16. All taxes necessary for the support of government of this state, shall be assessed on the grand levy, in an equal and ratable proportion in manner following, to wit: The per centum necessary to be charged on the dollar on said grand levy, for state expenditures, shall be fixed from time to time by law: the board doing county business in each county shall at their annual meetings in May, determine the per centum ne-

necessary to be levied for the purpose of defraying the expenditures of their respective counties, and that the road tax assessed on land may not exceed five cents on the one hundred dollars at the discretion of the board doing county business.

Sec. 17. The lien of the State for all taxes, for state, county, road or other purposes, shall attach on all real estate, <sup>Lein for taxes</sup> on the first day of March, annually; and such lien shall be perpetual, for the amount of all taxes which may hereafter accrue with the interest and penalties in each case, until such taxes, interest and penalties shall be fully paid which lien shall in no wise be affected or destroyed by any sale or transfer of such real estate.

Sec. 18. Every person, body politic or corporate, shall be bound to list, and stand chargeable with tax, on all personal property subject to taxation by law, owned or possessed on the first day of March, annually; and if the county collector <sup>Tax, how collected after the expiration of the year.</sup> or other person appointed to collect the taxes, cannot in any one year collect the tax charged on said property, the same shall remain as a debt against such person, body politic or corporate, and, with legal interests thereon, may be collected at any time thereafter; (together with any poll tax, so neglected to be paid, by any person chargeable therewith,) by the said collector or other person to collect the taxes, in the same manner that he is authorized by law to collect other taxes in other cases.

Sec. 19. The personal property of any deceased person shall be liable, in the hands of any executor or administrator, for any tax due on the same by any testator or intestate.

Sec. 20. That for the purpose of State revenue for the year eighteen hundred and thirty-nine, the boards doing county business in the several counties in this State, shall, at the times hereinafter named, fix the following per centum for said year to be levied and collected on all property, real and personal, made taxable by this act, <sup>Rate of per centum.</sup> viz: At their May session in 1839, they shall, for state purposes as aforesaid, to be levied and collected as aforesaid, fix the per centum at thirty cents on the one hundred dollars valuation of property subject to taxation, and for the same purpose and at the same time, levy and assess the sum of fifty cents on each male inhabitant between the ages of twenty-one and fifty years: And at their May session of eighteen hundred and thirty-nine, at the time of fixing the per cent, to be levied and collected at the time named in this section for state purposes, the several county boards shall for purposes of county revenue, in like manner fix any per centum by them deemed necessary on each one hundred dollars valuation of taxable property, and such amount on each male inhabitant between the ages aforesaid for county purposes as they may deem necessary, not exceeding fifty cents; all of which amounts, both for state and county purposes, shall be levied and collected as provided by law.

Sec. 21. That there shall be, and hereby is set apart and appropriated to the discharge of the interest on the state bonds, <sup>Am't set apart for internal improvement.</sup> issued for the purpose of internal improvements for the year

1839, an amount equal to the sum to be realized for said year from the per centum fixed on each one hundred dollars valuation of property: and the Auditor of State shall on the first day of February annually, audit to the board of Fund Commissioners, or upon the order of either of them, the amount set apart as aforesaid.

**Sec. 22.** That any board doing county business failing or neglecting to appoint a competent assessor for such county, or neglecting to appoint any officer necessary in the collection of the revenue of such county, upon the happening of any contingency by which it is made their duty thus to appoint such officers, within their proper county, or neglect any other duty enjoined upon them by any act relating to the assessment and collection of the state and county revenue, by which the revenue shall fail to be collected; every member of such county board, so failing or neglecting, shall, in their individual characters, be liable to pay a fine of not less than fifty, nor more than five hundred dollars, at the discretion of the jury trying the same, on presentment or indictment; and it is hereby made the duty of the circuit courts to give this act, specially in charge to grand juries.

**Sec. 23.** All acts or parts of acts coming within the purview of this, be, and the same are hereby repealed: *Provided*, That no right vested, act done, obligation or liability incurred under any act repealed by this act, shall be in anywise affected or impaired by the repeal thereof.

**Sec. 24.** That one thousand copies of this act be printed in pamphlet form for the use and benefit of the several counties in this state to be distributed among said counties according to the number of their representatives, on or before the first Monday of March next, and that the Secretary of State be, and he is hereby authorized to attend to the provisions of this section and transmit such copies by mail to the clerks of the several counties, paying the postage charged, to his official postage account, and paid accordingly.

**Sec. 25.** The revenue for the year 1839 shall be assessed and collected under the laws now in force, except so far as the same may come in conflict with this act.

1839.

Penalty for neglect of com'rs and others.

Repeal.

1000 copies to be printed.

## CHAPTER XV.

AN ACT to amend an act entitled, "an act to regulate the mode of doing county business in the several counties in this state," approved, Feb. 17, 1838.

[APPROVED, FEBRUARY 14, 1839.]

**Sec. 1.** *Be it enacted by the General Assembly of the State of Indiana*, That no part of the act to which this is an amendment shall be so construed as to render it necessary for the county

Clerk to certify transcript of commissioners.

commissioners or either of them to sign or seal any copy or transcript of any of their proceedings to give such copy or proceeding validity as evidence in any court of this state, but it shall be sufficient for the same to be certified by the proper clerk under the seal of said commissioners.

**Sec. 2.** That the certificate mentioned in the thirty-third section of said act, need not be signed by the president of said board, but the certificate of the clerk shall be sufficient for any purpose.

**Sec. 3.** This act to be in force from and after its passage.

## CHAPTER XVI.

AN ACT to reduce the Board of Fund Commissioners.

(APPROVED, FEBRUARY 14, 1839.)

**Sec. 1.** *Be it enacted by the General Assembly of the State of Indiana*, That from and after the first day of March next, the present board of fund commissioners shall be abolished.

**Sec. 2.** There shall be appointed, by the Governor, by and with the advice and consent of the Senate, two fund commissioners, who shall hold their office for the term of three years from and after the first day of March next.

**Sec. 3.** The said fund commissioners before entering upon the duties herein enjoined upon them, shall respectively take an oath before some person legally authorized to administer oaths, to faithfully discharge the duties of their office, and shall each file in the office of the Secretary of State, a bond with sufficient security to be approved by the Governor, in the penal sum of one hundred thousand dollars conditioned for the faithful and correct discharge of all the various duties enjoined upon them by law, and also for the faithful accounting for, of all the money which may come into their hands, by virtue of their office as fund commissioners.

**Sec. 4.** In case of a vacancy in the office of fund commissioner, caused by death, resignation or otherwise at any time when the general assembly is not in session, the vacancy shall be filled by appointment of the Governor, and the person so appointed shall serve until the first Monday of March next ensuing after the session of the general assembly succeeding his appointment. But if at the time such vacancy occurs, the general assembly be in session, then such vacancy shall be filled by appointment of the Governor by and with the advice and consent of the Senate.

**Sec. 5.** The said fund commissioners, or either of them, may at any time be removed by joint resolution of the general assembly.

Fund com'rs to be appointed.

Oath and bond.

Vacancy, how to be filled.

How removed.

**Compensation.** Sec. 6. The said fund commissioners shall be allowed as a compensation for their services, the sum of three dollars for every day they may be employed in the discharge of the duties required of them by law, together with an equitable allowance for traveling and other expenses.

**duty of present board transfer-red.** Sec. 7. All the duties, powers, rights and privileges belonging or appertaining to the present board of fund commissioners from and after the first day of March next, shall be transferred to the fund commissioners herein authorized to be appointed. And it shall be their duty for and in behalf of the state to negotiate all loans, except such as by law may be otherwise provided for, now authorized by law, or which may hereafter be authorized under the same regulations and restrictions as are now imposed by law upon the board of fund commissioners; and the said fund commissioners shall have full power and authority to negotiate such loans, either in the United States or in Europe, as they may deem most conducive to the interest of the state; and all certificates of state stock or state bonds signed by said fund commissioners for the purpose of negotiating such loans, shall be as valid and binding on the state as the bonds signed by the board of fund commissioners heretofore authorized by law.

**Loans, how negotiated.**

**Repeal.**

Sec. 8. All laws and parts of laws heretofore enacted, contravening the provisions of this act, be and the same are hereby repealed.

## CHAPTER XVII.

AN ACT to amend an act, entitled, "an act to amend an act, entitled, an act to provide for distributing so much of the surplus revenue of the United States as the state of Indiana may be entitled to, and receive, by virtue of an act of Congress, approved June 23d, 1836—approved February 17, 1838.

[APPROVED, FEBRUARY 18, 1839.]

**Loan agents to give bond.**

Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That hereafter it shall be the duty of each loaning agent of the surplus revenue, annually to give bond and security to the satisfaction of the board doing county business in and for the particular county in which said agent may be appointed, to act in the same manner as is provided by the act to which this is an amendment: *Provided, however,* That said agent shall enter into bond and security as aforesaid at the first meeting of the board doing county business after he shall have been appointed, and upon a failure to comply with the provisions of this act, it shall operate as a forfeiture of his appointment and the board shall forthwith proceed to appoint

**Board may appoint some suitable person to fill such vacancy, who shall thereupon proceed to comply with the provisions of this act and the act to which this is amendatory.**

**Clerk of C. C. may be indicted for negligence.** Sec. 2. That any clerk of any county in this state who fails or refuses to comply with the duties enjoined on him by the fourth section of an act, entitled, "an act to provide for distributing so much of the surplus revenue of the United States as the state of Indiana may be entitled to and receive by virtue of an act of Congress, approved 23d June, 1836, approved February 6th, 1837, shall be considered guilty of official negligence and upon conviction thereof by presentment or indictment in the circuit court of the proper county, shall be fined in any sum not less than twenty-five dollars nor exceeding one hundred dollars, and it shall be the duty of the clerk to perform the duties enjoined on him by the aforesaid 4th section of the before recited act, within sixty days from and after the filing of said agent's bond in the office of the clerk aforesaid.

**Effect of bond.** Sec. 3. That the bond given by any loaning agent as aforesaid shall be obligatory upon him and his securities in favor of the State for all acts done by him by virtue of his appointment as such agent, so long as he shall continue to act as such, and until his successor is duly appointed and qualified.

**Fees of loaning agent.** Sec. 4. Said loaning agents shall be entitled to, and receive as a compensation for their services one per cent. on all moneys by them loaned, under the provisions of the act to which this is amendatory, and also upon all sums remaining in the hands of the borrowers; said one per centum to be paid by the borrower at the time said money is loaned and upon the same remaining in the hands of the borrower at the time he pays his annual interest in advance on said sum; said one per centum, to be in all cases paid by the borrower in addition to the eight per centum per annum interest.

**Fees, out of what fund paid** Sec. 5. The fees to be paid by the loaning agent by the provisions of the fifth section of an act upon the subject of the surplus revenue, approved February 17, 1838, shall be paid out of the interest accruing upon said funds.

Sec. 6. Any loaning agent who shall fail to perform the duties required of him by the 24th section of the act, entitled, "an act to provide for distributing so much of the surplus revenue of the United States as the state of Indiana may be entitled to and receive by virtue of an act of Congress, approved 23d June, 1836," approved February 6th, 1837, and of the seventh section of an act entitled "an act to amend an act entitled an act to provide for distributing so much of the surplus revenue of the United States as the state of Indiana may be entitled to and receive by virtue of an act of Congress, (approved 23d June, 1836,") shall be deemed guilty of official negligence and upon conviction thereof by presentment or indictment, in the circuit court of the proper county, shall be fined in any sum not less than ten dollars nor more than one hundred dollars.

Sec. 7. *Be it further enacted,* That the following persons be, and they are hereby appointed agents for the loaning,

and managing the surplus revenue, from and after the first day of March next, (1839,) viz:

Allen county—Joseph Morgan.  
 Adams county—John K. Evans.  
 Bartholomew county—Joshua Simms.  
 Boone county—Addison Lane.  
 Brown county—William Taggart.  
 Clark county—Peter Smith.  
 Clay county—John Osborne.  
 Crawford county—Elam Wiley.  
 Carroll county—Samuel Grimes.  
 Cass county—Gillis M'Bean.  
 Clinton county—John H. Dunn.  
 Dearborn county—John M'Pike.  
 Decatur county—A. R. Forsythe.  
 Daviess county—William C. Berry.  
 Dubois county—Daniel Harris.  
 Delaware county—James Hodge.  
 Elkhart county—James H. Barnes.  
 Fayette county—Robert D. Helm.  
 Floyd county—Robert Downey.  
 Franklin county—John Wynn.  
 Fountain county—Franklin Merrill.  
 Fulton county—Alexander Chamberlain.  
 Gibson county—John Brownlee.  
 Greene county—John Jones.  
 Grant county—Samuel M'Clure.  
 Hamilton county—Haymond W. Clark.  
 Harrison county—Arthur Vance, jr.  
 Hendricks county—William L. Matlock.  
 Henry county—James Pierson.  
 Hancock county—Andrew T. Hart.  
 Huntington county—George A. Faite.  
 Jackson county—Media W. Shields.  
 Jefferson county—Jesse D. Bright.  
 Jennings county—Alanson Andrews.  
 Johnson county—Fabius M. Finch.  
 Jay county—John Pingry.  
 Knox county—William Scott.  
 Kusciusko county—Christopher Lightfoot.  
 Lawrence county—Alexander H. Donihue.  
 Lagrange county—E. Littlefield.  
 Laporte county—John Brown.  
 Madison county—Willis G. Atherton.  
 Marion county—John Elder.  
 Martin county—Caleb Rinehart.  
 Monroe county—John M'Corkle.  
 Montgomery county—William S. Gaily.  
 Morgan county—James Crawford.  
 Miami county—A. Cole.  
 Marshall county—Samuel D. Taber.  
 Noble county—Thomas Smith.  
 Orange county—Alexander Morris.

Owen county—Isaac Westfall.  
 Parke county—John P. Sunderland.  
 Pike county—Thomas C. Stewart.  
 Perry county—John Elder.  
 Posey county—Jeremiah Cash.  
 Putnam county—Isaac Mahan.  
 Porter county—David Okes.  
 Randolph county—William M. Way.  
 Ripley county—David P. Shook.  
 Rush county—Findley Bigger.  
 Scott county—James V. White.  
 Shelby county—Royal Mayhew.  
 Spencer county—James Jones.  
 Switzerland county—John F. Dufour.  
 St. Joseph county—E. P. Taylor.  
 Sullivan county—Abraham Snapp.  
 Steuben county—Joseph Pierce.  
 Tippecanoe county—William M. Jenners.  
 Union county—James Perry.  
 Vanderburgh county—Nathaniel Rouley.  
 Vermillion county—William H. H. Scott.  
 Vigo county—William M'Fadden.  
 Warrick county—William Smith.  
 Washington county—Elijah Newland.  
 Wayne county—J. R. Lampson.  
 Warren county—E. F. Lucas.  
 White county—William M. Kenton.  
 Wabash county—Jacob D. Cassett.  
 Lake county—Joseph P. Smith.  
 DeKalb county—Wesley Parke.  
 Blackford county—Eli Rigdon.

Sec. 8. Said agents shall continue in office for one year, Term of service. and until their successors are legally appointed and duly qualified to act.

Sec. 9. Said agents shall hereafter loan out the funds which may come to their hands, to the citizens of the various townships in their respective counties, in proportion to the number of taxable polls in each, as shall appear from the assessment returns for the year 1838; and so on for each succeeding year immediately preceding the loaning out of said funds. Funds, how to be loaned.

Sec. 10. All laws and parts of laws now in force on the Repeal. subject of the surplus revenue, are hereby continued in force, except so much thereof as comes within the purview of this act, which are hereby repealed. It shall be the duty of the treasurer of state to cause printed copies of this act to be distributed to the several acting loaning agents in this state previous to the first day of March next, 1839.

## CHAPTER XVIII.

AN ACT to authorize the refunding of moneys in certain cases.

[APPROVED, FEBRUARY 14, 1839.]

*Be it enacted by the General Assembly of the State of Indiana,* That in all cases where any person or persons, or body corporate shall pay or may have paid more tax, for state purposes, than was legally chargeable to them, on proof of such overpayment made before the board doing county business, in the county where shall such payment shall have been made, the said board shall certify the amount of such overpayment to the auditor of state, who is hereby required to credit the same as a claim against the state, and the treasurer of state to pay the same to the party entitled to it, out of any moneys unappropriated in the state treasury.

'This act to be in force from and after its passage.

Tax overpaid,  
how refunded.

## CHAPTER XIX.

AN ACT to organize the county of Pulaski, and to locate the seat of justice of said county.

[APPROVED, FEBRUARY 18, 1839.]

Rights and pri-  
vileges.

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That from and after the first Monday of May next, the county of Pulaski shall enjoy all the rights and privileges, benefits, and jurisdictions which do, or may properly belong, or appertain to separate or independent counties.

Commissioners  
to locate seat of  
justice.

*Sec. 2. That William Wardon and John Barr of White, and David Martin of Carroll, and James Gordon and James H. Kentner of Cass counties, be, and they are hereby appointed commissioners, agreeable to an act, entitled, "an act fixing the seats of justice for all new counties hereafter laid off; the commissioners aforesaid, shall meet on the first Monday of May next, at the house of John Pearson, in Winnamack, in the county of Pulaski, and shall, immediately proceed to discharge the duties assigned them by law; and it shall be the duty of the sheriff of White county, either in person or writing to notify said commissioners of their appointment on or before the first Monday of April next, and for such services he shall receive such compensation as the law requires.*

*Sec. 3. The circuit court and the board of county commissioners when elected under the writ of election from the executive department, shall meet at the house of Mr. Pearson, and hold their first session, and adjourn to any other place they see proper until the public buildings are erected.*

*Sec. 4. The board doing county business, may as soon as Commissio ns, elected and qualified, hold special sessions, not exceeding three &c. during the first year after the organization of said county, and appoint an assessor, and make all other necessary appointments, and do all other business that may be necessary, and take such steps to collect state and county revenue as may be necessary, any law or usage to the contrary notwithstanding.*

*Sec. 5. The circuit court of the county of Pulaski, shall Courts, where to be helden. after the expiration of twelve months from the passage of this act, be held at the county seat of said county, or as near as a convenient house can be had for that purpose, the Friday after the courts are held in White county; and the courts in Jasper shall be held the Monday after the courts in Pulaski; and said county of Pulaski shall remain attached to the county of White for judicial purposes, until twelve months from the passage of this act.*

This act to be in force from after its passage.

## CHAPTER XX.

AN ACT extending the jurisdiction of justices of the peace to fifty dollars in actions of trespass.

[APPROVED, FEBRUARY 15, 1839.]

*Be it enacted by the General Assembly of the State of Indiana,* That hereafter the jurisdiction of justices of the peace of this state in actions of trespass, shall be, and the same is hereby extended to fifty dollars, under the restrictions and limitations not inconsistent with the provisions contained in an act regulating the jurisdiction and duties of justices of the peace: approved, February 17, 1838.

This act to be in force from and after its passage.

Jurisdiction of  
actions of tres-  
pass.

## CHAPTER XXI.

AN ACT to amend an act, entitled, "an act to subject real and personal estate to execution;" approved, February 4, 1831, together with an act, to amend the last mentioned: approved, February, 1, 1834.

[APPROVED, FEBRUARY 16, 1839.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That it shall be lawful for any execution debtor, who is entitled to claim certain property as exempt from execution, according to the provisions of the act to which

Amount of pro-  
perty exempt  
from execution

this is an amendment, to claim any property, (if it shall so happen that the execution debtor shall be destitute of any or all the specific articles exempt by the laws to which this is an amendment,) to be selected by such debtor so that the value thereof shall not exceed one hundred dollars: *Provided*, Such execution debtor shall have a family.

**Repeal.** Sec. 2. That so much of the acts above referred to, as fixes the amount of the property exempt from execution at fifty dollars, be, and the same is hereby repealed.

This act shall be in force from and after its passage.

## CHAPTER XXII.

### AN ACT relative to practice in circuit courts.

[APPROVED, FEBRUARY 18, 1839.]

**When title to real estate shall be put in issue before justice of the peace, cause shall be certified to c. c.** Sec. 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever in the progress of any cause before a justice of the peace, the title to real estate shall be put in issue by the pleading, or shall appear by the proof to be necessarily involved, the said justice shall proceed no further with the trial, and shall forthwith make out a transcript of the proceedings in the cause, and, within twenty days, file the same with all the papers connected therewith, in the office of the clerk of the circuit court; and the said circuit court shall proceed with the trial of said cause, in the same manner as if it had been originally commenced therein.

**Expenses, how paid in case of change of venue.** Sec. 2. That in all changes of venue in criminal cases, the county from which the said change is taken, shall be liable for the expense of moving and keeping the prisoner, to be audited and allowed by the court trying the cause. The clerk of the said court shall certify such allowance to the board doing county business in the county from which the said change shall have been taken; and said board shall allow and pay the same, as they are required to allow and pay other just claims against their county; *Provided*, That if the state shall recover against any such person, who shall have taken a change of venue, any fine or forfeiture, the same is declared to belong to the county from which such change of venue was taken, for the use of the county seminary thereof.

**Proof of name of payees need not be required.** Sec. 3. That whenever hereafter, any instrument in writing shall be declared on as payable to the plaintiffs or their immediate or remote assignees, (assignors,) proof of the name or names of the payees or obligees in such writing shall not be necessary, unless the execution of such writing shall be put in issue by plea, under oath.

**Scire facias on judgment suspended.** Sec. 4. That hereafter it shall not be necessary to revive a judgment by scire facias, within three years after the rendi-

tion thereof; *Provided*, That if the said judgment has been more than a year and a day without execution, the plaintiff, his *Proviso in case agent, or attorney, before suing out execution thereon, shall of payment of make and file with the officer issuing such execution, an affidavit that such judgment has not been paid or satisfied, and that there is not, as he verily believes, any good reason why such execution should not be issued; and Provided also, That when execution shall have issued as above, upon any judgment which has lain more than a year and a day, without execution, if the defendant shall make, and file with the officer issuing the same, an affidavit that he has paid or satisfied the same, the officer issuing such execution shall recall the same, and such proceedings shall be had on the said judgment as heretofore by scire facias.*

Sec. 5. That hereafter no appeal from a justice of the *Appeals shall peace to the circuit court shall be dismissed because the justice, whose duty it may be to deposit such appeal in the clerk's office, shall fail to do so within the time prescribed by law. But transcript in case of such failure, the circuit court in its discretion, may continue such cause where the rights of the parties shall require; and the cost that either party may be subject to by such continuance, may be recovered of such justice of the peace by action of debt, in the name of the party to whom the same may be due from him.*

Sec. 6. That when hereafter any circuit court shall render judgment against two or more, upon any cause of action in which any of said judgment debtors are security for any other of such defendants, there shall be no stay of execution on such judgment, if the said security or securities object thereto; unless the said security for the stay of execution will undertake specially to pay the same in case it cannot be made off the principal debtor or debtors.

Sec. 7. It shall not be lawful for any circuit court, or any judge thereof, to give to any jury in any case, instruction or instructions or charge, modification, or explanation thereof, or charge verbally, if either party to the suit shall object thereto; but in case of such objection, all such instructions and charges or charge, modification or explanation thereof, shall be in writing, and be spread upon, and made thereby part of the record.

Sec. 8. No amendment of any pleadings in the circuit court, other than amendments to the declaration shall entitle the adverse party to a continuance of the cause, except where the issue has been made up at a previous term of the court.

Sec. 9. That judgments against any decedent may be re-plevied by the executor or administrator of such decedent, executing the bond in the place of the decedent.

Sec. 10. That in case the setting of any circuit court shall require the attendance of a jury beyond the time for which a jury is by the existing law provided, the jury then in attendance shall continue to serve as long as the business of the court requires. And if it shall so happen that at the close of any week or at the close of any term of said court, the trial of any cause shall be progressing, it shall be lawful for said court to

*Jury shall continue to serve, when courts sit longer than jurors were drawn for.*

*Court shall not adjourn during the trial of a cause, &c.*

continue its sittings, and require the attendance of such jury, as long as shall be necessary for the determination of such cause.

One suit may be commenced against the parties to a note under the law merchant.

Pay of grand and petit jurors.

Sec. 11. That it shall be lawful for the holder of any note negotiable by the law merchant, to institute one suit against all the parties to such note who may be liable at common law to the holder, but no such holder shall be permitted at any term of any circuit court, to institute more than one suit upon any one such note.

Sec. 12. That grand and petit jurors shall receive one dollar and twenty-five cents each per day, during their service, as their compensation therefor.

This act to be in force from and after its passage.

## CHAPTER XXIII.

AN ACT to amend the several acts for the collection of the revenue, and to repeal an act to provide a fund to encourage common schools: approved, February 2, 1832, and an act in furtherance thereof: approved, February 7, 1835.

[APPROVED, FEBRUARY 18, 1839.]

Duty of collectors as to non-resident lands.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be the duty of the several collectors of the revenue in this state on or before the first day of December annually, to certify a correct list, setting forth the lands and town lots on which taxes are not paid by non-residents, and others who have no personal property, to pay their taxes to the county treasurer in each county, and also to the clerks of the proper counties, each of whom shall record the said returns in books, to be kept for that purpose, and the certificate of such clerk setting forth the amount of state and county tax due on such lands and lots, shall be received by the auditor of public accounts in making settlements with such collector.

Treasurer shall report the return to legislature.

Sec. 2. The said county treasurer shall charge each tract or lot returned as aforesaid with a penalty of fifty per cent. on the tax assessed thereon, and at the rate of fifty per cent. per annum on said tax until the same shall be paid, and they shall on or before the tenth day of December annually, certify to the treasurer of the state the amount of lands returned on their books for the non-payment of taxes and the sums paid within the year for the redemption of such lands and lots; and the treasurer shall lay an extract before the legislature annually. In all cases where any collector after demanding and receiving any sums assessed and due from any person or persons, he shall discover an omission in the listing such persons lands or lots, such lands or lots so omitted by the assessor, shall not be subject to the penalties and per centage hereby incurred; *Provided*, such

Omitted lands not subject to the penalty of this act.

person or persons pay the tax thereon on demand being made of him by such collector or his successors in office.

Sec. 3. The said tax, penalty, per centage and costs shall Tax, &c., to operate as a lien on the loans and lots on which they are on lands. charged until paid to the county treasurer, and his receipt is filed with the clerk of the circuit court, who shall give a certified copy thereof to the person making such payment.

Sec. 4. When any lands or lots charged as aforesaid, shall not be redeemed before or at the expiration of five years after such taxes become due, it shall be his duty to make out a correct list of all such lands and lots giving a description thereof with the supposed owners' names if known, and cause the same to be published four weeks successively in a newspaper printed in the county in which such lands or lots lie, or if no such newspaper be printed in the county, then in a newspaper having the greatest circulation in said county, making known that he will proceed to sell as much of said lands and lots as will pay the taxes, penalties, per centage and costs.

Sec. 5. The county treasurer shall between the hour of nine in the forenoon, and five in the afternoon, on the day on which notice was given for the sale of such delinquent lands and lots aforesaid, expose to public sale at the court house of the county in which lands or lots lie, or at the place at which such courts are usually holden, and continue the sale from day to day until a sufficiency are sold to serve all demands to which such lands and lots stand charged.

Sec. 6. It shall be his duty to regulate the sales in such manner that the person or persons who will bid off, and pay the taxes, penalty and costs for the least quantity shall be the purchaser; if any person so delinquent shall be the owner of two or more lots in the same county, it shall be his duty to sum up the amount due on all the several tracts and lots, and proclaim the same, and if a part or the whole of one tract or lot should obtain no purchaser, in that case he shall proceed to expose the same to the highest bidder, and if a deficiency should remain, such deficiency shall be proclaimed, and a second tract or lot exposed in like manner, and proceed in the same order until a sufficient sum is realized to discharge the taxes, penalties, per centage and costs.

Sec. 7. In all cases where more than one person of the same name should be returned as delinquent in one county without such fact being known to the collector or treasurer of said county, and by exposing such lands or lots for sale under the provisions of this act, one or more of such person's lands or lots should be sold, whereby the remaining delinquent lands or lots of the same name should be released, the person or persons so aggrieved, shall have a right to recover a ratable proportion from the person or persons who shall be benefitted as aforesaid; and such claim shall operate as a lien on the lands and lots so released, and it shall be lawful for him to recover the same by bringing suit in any court having competent jurisdiction.

Lands, how sold.

Same.

Remedy, when two or more persons of the same name are returned delinquents.

When purchasers fail to pay, &c.

County treasurer to pay over money to state treasurer.

Deed to be executed.

When lands are redeemed certificate to be given.

Exemptions.

Repeal.

**Sec. 8.** If any person or persons should become the purchaser of any tracts or lots sold as aforesaid, and neglect to pay the purchase money to the county treasurer by the time stipulated, it shall be the duty of such treasurer to bring suit for the recovery thereof or expose the same to sale a second time at his option, and the purchaser so neglecting, shall be liable to a penalty of ten per cent. in damage.

**Sec. 9.** That it shall be the duty of the county treasurer on the first Monday of December in each year to pay over to the treasurer of state all sums of money received for the taxes, due on said lands and town lots, either for redemption or upon sale thereof, under the same restrictions and penalties imposed upon collectors of state revenue; and it shall also be the duty of said county treasurer to pay to the commissioners of common schools in their respective counties on the third Mondays of November in each year, all money retained by them for the penalty and per cent. specified in this act, either upon sale or for the redemption thereof.

**Sec. 10.** When full payment shall be made by the purchaser of lands or lots sold as aforesaid, the county treasurer is hereby required to execute a deed or deeds to such purchaser, which shall be *prima facie* evidence that all the facts stated therein are true, and he shall be entitled to one dollar for such deed, payable by the person or persons to whom it is executed.

**Sec. 11.** If at any time before the sale of lands or lots returned as delinquent, the owners or their agents should pay to the county treasurer the demands to which they are subject by virtue of this act it is, and is hereby made his duty to give to the person paying the same, a certificate setting forth the sum paid with the description of the land so redeemed as returned by the collector; *Provided also*, it shall be the duty of the clerk of the proper county on the presentation of such certificate to record the same in a book kept by him for that purpose, for which he shall have a right to demand and receive the customary fees for performing the like services.

**Sec. 12.** That infants, idiots, feme covert, and insane persons who are the owners or claimants of lands or lots returned as delinquent, may within three years after such sale or such disability be removed, be permitted to redeem the same by discharging the demands to which they are liable by virtue of the provisions of this act.

**Sec. 13.** All laws and parts of laws coming within the purview of this act are hereby repealed.

## CHAPTER XXIV.

AN ACT to amend an act, entitled, "an act to organize probate courts and defining the powers and duties of executors, administrators, and guardians;" approved, February 17, 1838.

[APPROVED, FEBRUARY 15, 1839.]

**Sec. 1.** *Be it enacted by the General Assembly of the Associate judges of the State of Indiana,* That it shall be lawful for the associate judges of the county of Grant, and they are hereby authorized to hold the probate courts in and for the county of Grant until a probate judge shall be elected and qualified.

**Sec. 2.** The associate judges in the performance of such duty, shall be governed by the same laws as probate judges of this state are, and shall receive the same compensation as is or shall be allowed to probate judges of this state and paid in the same manner.

This act to take effect and be in force from and after its passage.

## CHAPTER XXV.

AN ACT relative to the owners of forfeited lands in the state of Indiana.

[APPROVED, JANUARY 29, 1839.]

**Sec. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That any person or persons being the owner or owners of any land or lands in any county in this state, which shall have been or which hereafter may be returned to the school commissioner of any county, for non-payment of taxes, may, as well after as before the same shall have been forfeited and vested in the state of Indiana, by judgment of the proper circuit court, redeem the same at any time previous to actual sale, by payment to the proper school commissioner of the amount of tax, percentage, penalties and cost, due on the respective tracts; and on such payment being made, it shall be the duty of the school commissioner to execute a release to said owner or owners, and to make the proper entry in his own books, and upon the records of the circuit court to discharge said land from such liability, on account of such forfeiture or vestment in the state.

This act to be in force from and after its passage.

## CHAPTER XXVI.

AN ACT to amend an act, entitled, "an act regulating the taking up of animals going estray, and water crafts and other articles of value adrift.

[APPROVED, FEBRUARY 18, 1839.]

Clerk to forward to state printer list of estrays, &c.

Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be the duty of the clerk of the circuit court in each county in this state to make out monthly, a correct copy of the description and appraisement of each estray of a greater value than ten dollars that may have been entered in his estray book, and transmit the same to the state printer, marking thereon "estray papers," together with the sum of one dollar to pay the printer for publication of the same; and for other purposes.

Printer to record description in a book and publish, &c.

Sec. 2. It shall be the duty of the printer on the receipt of such description and appraisement, immediately to record the same in a book to be kept by him for that purpose and at least once in every month to publish in the newspaper a copy of all such estray papers as may have been received by him within the preceding month, and transmit one copy of said publication free of charge to the clerk of the circuit court in each county in this state, to be filed and kept on file by said clerk in his office for at least two years, for the examination of any person who may desire it.

Taker up to pay or clerk one dollar, &c.

Sec. 3. It shall be the duty of the taker up of any estray or estrays, if the same shall be appraised to a greater sum than ten dollars, to pay to the justice of the peace to whom the return of the description and appraisement is made, in addition to the fees already allowed by the act to [which] this is an amendment, the sum of one dollar to be by him paid by [to] the clerk of the circuit court, and by the clerk transmitted to the state printer as aforesaid.

Repeal.

Sec. 4. That so much of the fourth section of the act to which this is an amendment, as relates to property appraised to more than ten dollars or comes within the purview of this act shall be, and the same is hereby repealed.

Sec. 5. This act to take effect and be in force from and after its passage.

## CHAPTER XXVII.

AN ACT concerning Knox county.

[APPROVED, JANUARY 28, 1839.]

Court in Knox county may be held in Town Hall.

Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That all the courts whatsoever, hereafter to be

held in and for Knox county, may be held in the Town Hall in the market house in Vincennes, in case that the circuit court of Knox county shall so order and direct. And that, in case said circuit court shall so order and direct, the commissioners of Knox county shall make to the borough of Vincennes a reasonable compensation for the use of said Town Hall, as a court room; and if said commissioners shall refuse to make such compensation, then the said circuit court may make the same, and the treasurer of Knox county shall, from time to time, pay the amount of their order accordingly.

Sec. 2. That the county commissioners shall, whenever <sup>Com'r's may sell</sup> court house. they think proper, sell the present court house, and shall also, at such time or times as they may think proper, sell such part or parts of the court house square, as they may think proper, for the benefit of said county, and may make a deed or deeds of conveyance accordingly.

Sec. 3. At such time as the county commissioners of said <sup>May purchase</sup> ground for c. h. county may think proper, they are hereby authorized to purchase a sufficiency of ground in a convenient part of the borough of Vincennes, for the erection of a court house, having its front on the line of some street in said borough, or within a few feet of such line, and thereon may erect such court house.

Sec. 4. It shall be the duty of the county commissioners forthwith, in some proper and convenient place in the borough of Vincennes, to erect a fire-proof building or buildings, sufficient and convenient for the clerk or clerks of the circuit court and of the probate court of said county, and for the recorder of said county wherein to keep their offices and to preserve their records; in which buildings, when so erected, such offices shall be kept.

Sec. 5. For the purpose of aiding said commissioners in the <sup>May borrow money.</sup> execution of the powers and duties conferred on, or required of them by this act, they are hereby authorized and empowered to borrow in the name of and for the county of Knox, any sum or sums of money, not exceeding in the whole, the sum of twenty thousand dollars, from the Vincennes branch bank, or from any other corporation, person or persons, upon such terms, as they may deem just and reasonable.

Sec. 6. A public administrator shall be appointed for Knox <sup>Public adm'r may be app't.</sup> county, by the Governor. He shall be appointed for the term of three years, and until his successor is appointed and qualified, and shall give bond in such an amount, as the probate court of Knox county shall require, conditioned for the faithful discharge of all his duties, in the ordinary form of an administration bond; and it shall be his duty to administer upon the estates of all persons dying intestate in the county, without next of kin who are qualified and authorized by law, to administer, or who shall not within the space of fifteen days after the decease of such person so dying, claim such administration and qualify themselves accordingly.

Sec. 7. Such public administrator shall act under the same <sup>His duty.</sup> jurisdiction of the courts in Knox county as other administrators in said county act, and receive a similar compensation, to be allowed in the same manner.

Sec. 8. The estates of all persons who may depart this life in Knox county, without legal or known legal heirs, shall be converted into money by the public administrator under the order and direction of the probate court of Knox county, and after the payment of all just debts and of all expenses, shall be paid over to the treasurer of the Vincennes university for the use of the same; *Provided nevertheless*, That if at any time after any such payment shall be made, any person shall appear and establish his or her right as legal heir, to the satisfaction of the said probate court, then said court may decree that said university shall refund the money so received, to said claimant, and may enforce the performance of the same, as in other cases.

Sec. 9. That the elections in Vincennes township may be held in the Vincennes market house.

This act to be in force from and after its passage.

### CHAPTER XXVIII.

AN ACT to amend an act, entitled, "an act to enable the school commissioners of the several counties of this state to correct the returns of the collectors;" approved February 1, 1836.

[APPROVED, FEBRUARY 12, 1839.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana*, That whenever hereafter the school commissioner of any county in this state shall have corrected the return of the collector as provided for in the first section of the act to which this is an amendment, the collector or the collectors and his securities shall be liable to pay to the school commissioner for the use of the school district in such county, such sum or sums of money as by law were due upon said land, to be recovered before any court having jurisdiction of the amount by an action of debt on the collector's bond; *Provided always*, That if the collector shall have duly accounted for the taxes by him received on such land, that he shall only be liable to the costs incurred by reason of such return; and *provided also*, That the said collector shall not be liable for any double assessments made in the assessment rolls.

*Sec. 2. The school commissioner for his services under the act to which this is an amendment, shall receive the same fees for the like services of justices of the peace, to be paid by the applicant when he shall fail in his application or by the collector when he shall be found liable under the provisions of the first section of this act.*

*Sec. 3. The school commissioners shall be authorized to hear and determine applications under the act to which this is*

School commr's  
to collect certain  
moneys from col  
lectors.

Proviso.

School commr's  
fees.

an amendment at any time prior to the sale of the land so returned.

Sec. 4. The applicant or collector shall have the right to an *Appeal to circuit court*. appeal to the circuit court at any time within five days after such decision by the school commissioner, by the applicant giving bond with security to be approved by such commissioner, payable to the state of Indiana for the payment of such judgment, interest, and costs, and accruing interest and costs, as shall be given against him by such court on such appeal, and said court shall hear and determine such appeal, by the laws regulating appeal from justices of the peace; *Provided*, That no appeal shall be dismissed for any defective or informal proceeding, but shall hear and determine the same upon its merits.

This act to take effect and be in force from and after its passage.

### CHAPTER XXIX.

AN ACT to amend an act, entitled, "an act relating to public roads and highways;" approved, February 17, 1838.

[APPROVED, FEBRUARY 18, 1839.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana*, That in the counties of Rush, Hancock, and *Road tax, how  
worked out in several counties.* Shelby, and Washington, it shall be the duty of each supervisor to furnish the clerk of the court of his county, on or before the first Monday of June annually, a complete list of the individuals liable to pay tax in his road district, particularly specifying those who are the owners of real estate in his district; whereupon the court shall make out a list of the road tax assessed on each person in such supervisor's district, and deliver the same to the said supervisor, whose duty it shall be to have the same worked out on the roads and public highways, or collected according to law.

*Sec. 2. The board doing county business in the aforesaid Extra allow-  
ance to be made  
counties, shall at their May term in each year, make such al-  
lowance to supervisors for such extra service as may be just  
and reasonable; but in making such allowance the board shall  
have special reference to the number of hands such supervisor  
has had under his direction; *Provided however*, That no al-  
lowance shall be made to any supervisor until he shall have  
furnished said board a complete return of his operations on the  
public roads and highways in his said district, which return  
shall be sworn to by such supervisor.*

*Sec. 3. All laws and parts of laws coming within the pur-  
view of this act, be, and the same are hereby repealed.*

This act to take effect and be in force from and after its passage.

## CHAPTER XXX.

AN ACT for the relief of purchasers at sheriffs' sales.

(APPROVED, FEBRUARY 16, 1839.)

Preamble.

Mode of making  
deed in sheriffs'  
sales.

Whereas, It is represented to the General Assembly, that lands have been purchased by citizens of this state at sheriffs' sales upon execution, and the sheriffs have either gone out of office or died without having made deeds to the purchasers for the land so purchased, and without the interference of this Assembly the purchasers will be driven into a court of chancery, to have their titles confirmed, for remedy thereof,

*Be it enacted by the General Assembly of the State of Indiana,* That whenever any sheriff of any county in this state shall have sold lands upon execution, and have gone out of office, or departed this life without having made a deed or deeds to the purchaser or purchasers thereof, it shall be lawful for, and it shall be the duty of any sheriff now in office or which may hereafter be in office, in any county in this state, where such sales may have been made, to make, execute, and deliver as sheriff, to such purchaser or purchasers, their heirs, or assigns a deed for the property so purchased, in which deed shall be stated the execution on which such sale or sales had been made, the return of the sheriff thereon, with the entry of such return as made in the execution docket of said court; which deed when made, shall have the same force and effect as if made by the sheriff who made the sale and no more.

## CHAPTER XXXI.

AN ACT to provide for public printing, and for the distribution of the laws and journals.

(APPROVED, FEBRUARY 16, 1839.)

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That in the month of January, 1841, and every how and when three years thereafter, each House of the General Assembly to be executed shall choose, by ballot, a public printer for their respective Houses, to serve for three years from and after the first day of August next after each of said elections; and the person so elected shall, within twenty days thereafter, enter into bond and security to the satisfaction of the auditor, treasurer, and secretary of state, for the prompt, accurate and neat execution of the work; and in case of any inconvenient delay in the delivery of the work required by this act, or that may be required by the House to which they are printer, the secretary, auditor, and treasurer of state may be authorized to employ any other person to execute any portion of the work herein provided for,

Shall give  
bonds.

and charge the excess, if there be any, to the account of such printer guilty of such negligence and delay; *Provided*, That other printers the present public printers shall be continued such public printers, in conformity to the provisions of this act, for the time for which they were elected.

*Sec. 2.* The prices to be paid such public printers are here-  
by established as follows, and shall so remain unless changed by law; for composition per thousand ems plain matter, sixty-two and one half cents; figure work per one thousand ems, ninety-three and three-fourth cents; rule and figure work per one thousand ems, one dollar and twenty-five cents; for press-work per token, common forms, sixty-two and a half cents; broad sides per token, ninety-three and three-fourth cents; folding reports and bills for one hundred copies on each signature (distinct tables to be considered as signatures) twelve and one-half cents; stitching reports and bills per one hundred copies, twenty-five cents; all printing, done on account of the state of Indiana, shall be subject to the provisions of this act.

*Sec. 3.* It shall be the duty of the auditor, treasurer, and secretary of state, and the board of directors of the state bank, to make out a copy of each of their annual reports at least fifteen days before the sitting of the General Assembly, and furnish the public printer to the House with a copy, who shall print in continued pages the same, and in the order herein enumerated, fourteen hundred copies each of said reports, under the inspection of the person making the same, and, when so printed, shall deliver them to the secretary of state on or before the third day of the meeting of the General Assembly.

*Sec. 4.* It is hereby made the duty of the board of internal improvements to make out their annual reports accompanied with the report of the principal engineer; also, the fund commissioners and state geologist, fifteen days before the sitting of the General Assembly, and hand a copy of the same to the public printer of the Senate, who shall print in continuous pages the same and in the order here enumerated, fifteen hundred copies each of said reports, under the inspection of the person making the same, and, when so printed, shall deliver them to the secretary of state on, or before, the third day of the meeting of the General Assembly.

*Sec. 5.* The secretary of state shall, on receiving the reports directed in the foregoing sections, retain five hundred of each for a documentary journal hereinafter provided for. And one third of the balance delivered to the Senate on the third day of the session, and the remainder to the House on the same day.

*Sec. 6.* The secretary of state shall superintend all printing done for the state, and see that the same be well executed; and shall measure the same accordingly, and certify, under his hand and the seal of his office, the amount and kind of work done, together with the cost: which certificate shall authorize the auditor of public accounts to audit the same, and the treasurer shall pay the amount out of any funds in his hands not otherwise appropriated; *Provided*, That the secretary in procuring

the state printing, shall make the amount as near equal as can be between the Senate and House printer.

Secretary of state to make indexes.

Sec. 7. It is hereby made the duty of the secretary of state to make out complete indexes to the documentary journal and other journals, and of the general laws and special acts, and cause the same to be bound, in their appropriate volume; and he shall cause the documentary journal, to be bound in boards, (caelld half binding,) also, the general laws in the same manner; the special acts, the journal of the Senate, and of the House, he shall cause to be bound in strong paper binding, for which he shall allow a reasonable compensation, to be certified and audited and paid for as is provided in the case of public printing.

Documentary journal, how to be printed.

Sec. 8. A documentary journal shall be kept and consist of two parts, each part shall be continuously paged; part first shall be composed of the Governor's message, the annual reports of the auditor, treasurer, and secretary of state, board of directors of the State Bank and branches, and the report of the committee of ways and means, and such other reports as may be directed by the House. Part second shall be composed of the report of the board of internal improvement, and engineers, fund commissioners, and state geologist, and such other reports as may be directed by the Senate; *Provided*, That no document or report directed by this act or may be directed by either branch of the General Assembly to be placed in the documentary journal shall be journalized in the journal of the Senate or of the House; *Provided*, also, that in all cases where either the Senate or House directs any document or report to be printed and placed in the documentary journal, five hundred copies in addition to the number directed for the use of the House directing the same, shall be printed and handed to the secretary of state for the documentary journal; so that in no instance shall pay for composing the same matter be twice allowed.

Documentary journal, how distributed.

Sec. 9. The secretary of state shall annually cause five hundred copies of the documentary journal, in the manner before stated, and a like number of the Senate and House journals to be printed and disposed of as follows, to each member of the Senate and House, and each officer and clerk, one copy of the documentary journal and one copy of the journal of their appropriate House; and to each organized county within the state two copies each of the aforesaid journals, one copy each shall be deposited in the clerk's office of each of said counties, open for the inspection of any person desirous so to do; also, one copy each in the county library, and in case there be no such county library, then in the clerk's office for the benefit of such library, when organized. Also, one copy to the Governor, auditor, treasurer, and secretary of state; one copy to each member of the board of internal improvement and fund commissioners, principal engineer, and resident engineers; also, to each of the judges of the supreme court. The balance to be preserved in the state library for the use of the General Assembly.

Journals, how distributed.

Sec. 10. The secretary of state shall at the same time and in the same manner that the laws are distributed, distribute the

journals as is provided in the foregoing sections of this act; *Provided*, that the journal for members shall be directed to the county in which they reside, and shall be deposited in the clerk's office subject to their order; *Provided also*, That the secretary of state distribute the present year the documentary journal of last year in equal numbers to each county in this state, and in the same manner as is provided in the forepart of this section; and the documentary journal of the present session shall be disposed of agreeable to the provisions of this act.

Sec. 11. The laws and journals of each session of the General Assembly shall be printed by the public printers, and delivered to the secretary of state within sixty days after the adjournment of the session of the General Assembly; and, in case of failure so to deliver any work as required by this act, they or either of them, as the case may be, shall be liable to a penalty of five dollars for each day's delay, and shall be deducted from the pay of the printer guilty of such failure.

Sec. 12. It is hereby made the duty of the auditor, treasurer, and secretary of state to procure all necessary paper for the public printers, and stationary for the General Assembly, and for the several offices of the state departments; and the bill or bills of purchase or purchases shall be a sufficient voucher for the auditor to audit the same, and the treasurer to pay the same out of any money not otherwise appropriated.

Sec. 13. It is hereby made the duty of the secretary of state to put up in good order and to keep the same in yearly files all bills introduced into either branch of the General Assembly; all &c. petitions, memorials, and remonstrances, each in their appropriate file; the files of each House shall be kept separately; and any person or persons carrying away without the leave of the House to which they belong, or embezzling the same, shall be liable to pay a fine of twenty dollars, to be recovered as other fines.

Sec. 14. That it shall be the duty of the secretary of state, No. of copies of so soon as the printing of the laws shall be annually done, to laws to be printed. certify the fact, that he had compared the printed with the enrolled acts, joint resolutions, and memorials, and found them correctly printed; which certificate shall be signed and dated by the secretary, and annexed in print to the volumes of the acts, joint resolutions, and memorials; and he shall cause to be printed in one volume, and the special and private acts, joint resolutions of a local or private nature, and memorials of the present and all future sessions of the General Assembly to be denominated, special acts, of which special acts there shall be printed one thousand copies; and the secretary shall cause to be printed annually, five thousand copies of the general laws and joint resolutions of a general nature, and shall annually distribute as follows, to wit: To the governor, lieutenant governor, secretary, auditor, and treasurer of state, each, one copy: to the United States judges, and district attorney for the state of Indiana, each, one copy: the judges of the supreme court and probate courts, and circuit courts, each, one copy: to the circuit prosecuting attorneys, each one copy; to the

several states and territories of the United States such number of copies, not exceeding three, as may be received from the secretary's office of them respectively; to the members of the Senate and House of Representatives, the secretaries and regular clerks, each, one copy, and shall be forwarded to each as hereinbefore provided in the case of the journals to members, except those directed to the states and territories, the secretary shall send them as he may think best.

**Sec. 15.** The residue of such copies shall be disposed of as follows: To the counties of Wayne and Dearborn, sixty copies each; to the counties of Washington, Jefferson, Marion, Henry, Rush, Montgomery, Putnam, Fountain, Parke, Tippecanoe, Clark, and Laporte, each, fifty-five copies; to the counties of Franklin, Orange, Knox, Fayette, Union, Switzerland, Jackson, Lawrence, Monroe, Sullivan, Vigo, Gibson, Bartholomew, Posey, Ripley, and Decatur, fifty volumes, each; and all other counties forty-five copies each; and the said volumes so to be delivered to each of the aforesaid counties shall be delivered to the clerks of the several counties, except in cases where there may be no clerk, in that case the same shall be delivered to the sheriff of such county, and the said volumes, when so delivered to such clerks or sheriffs, shall be distributed by such clerks and sheriffs as follows, to wit: to the associate judges, justices of the peace, clerk of the court, recorder of the county, sheriff and coroner, and each county commissioner, one volume each.

**Sec. 16.** The volumes of the special acts of the present session shall be distributed and disposed of as follows, to wit: to each member of the Senate and House of Representatives, one volume, and to each county in the state six volumes, to be forwarded as aforesaid, and preserved in the clerk's office of the respective counties, for the use of those concerned; and the remaining volumes to be preserved in the secretary's office.

**Sec. 17.** The secretary and treasurer of state and auditor of public accounts or a majority of them are hereby required annually hereafter to contract with some separate person or persons for each judicial district in the state to convey and deliver the several volumes of the aforesaid acts and joint resolutions and journals to the several persons, counties and places pointed out by this act; taking bond and security of the undertakers for the faithful performance of the contract: and so soon as such undertaker shall produce to the secretary of state the receipts of the several clerks or sheriffs authorized to receive the laws and journals aforesaid, setting forth that the proper number of volumes of the laws and journals have been delivered in good order, the said secretary shall then certify under his hand and seal that such undertaker has performed his contract, and the amount that is due to such undertaker for the same; which certificate of said secretary shall be a sufficient voucher for the auditor of public accounts to give such undertaker an audited warrant therefor; and the treasurer of state is hereby authorized to pay such warrant out of any money in the treasury not otherwise appropriated.

Contract for  
distributing  
laws & journals.

**Sec. 18.** That in all cases, when any person employed to distribute the laws and journals of this state shall fail or neglect <sup>Penalty on contractors for failing to deliver laws.</sup> to perform his duties agreeably to his contract, it shall be the duty of the secretary of state to cause suit forthwith to be commenced on such contractor's bond, and have the same prosecuted to final judgment; and it is hereby made the duty of the prosecuting attorney of the district, where such suit shall be commenced, to attend and prosecute the same, for and on behalf of the state, and collect [and] pay over the amount recovered into the state treasury.

**Sec. 19.** It is hereby made the duty of the clerks of the <sup>Clerk to record receipt of laws.</sup> circuit courts of each county, to make a record of the day and date of the reception of the acts, and joint resolutions, as above authorized, in his office: and such record shall be deemed and taken as the time of the publication of the said laws within said county.

**Sec. 20.** The secretary and treasurer of state, and auditor <sup>Contracts for fuel.</sup> of public accounts, or a majority of them, are hereby required annually, in like manner, sixty days before the first day of each and every General Assembly, to close a contract or contracts with some person or persons for furnishing the necessary fire wood, or other fuel, and stationary, for the use of the Houses of the General Assembly; and shall enter into bonds, as in case of contracts for printing: which contracts shall be severally reported to the General Assembly within three days after the commencement of each session by the secretary of state.

**Sec. 21.** Previous to entering into any such contract or <sup>Notice to be given.</sup> contracts, the secretary, treasurer, and auditor of state shall give public notice thereof in such way and manner, as they or a majority of them shall deem most advisable.

**Sec. 22.** In all counties, where there may be surplus copies <sup>Surplus copies, how disposed.</sup> of the laws, either of this or any preceding or succeeding year, it shall be the duty of the clerk of each of such counties to deliver one of each of such surplus copies to each officer entitled to the laws, who has not personally had a copy of the same, on such officer applying for the same.

This act to take effect and be in force from and after its passage.

## CHAPTER XXXII.

AN ACT authorizing the several boards doing county business in this state to sell and convey real estate.

[APPROVED, FEBRUARY 16, 1839.]

**Sec. 1.** Be it enacted by the General Assembly of the State <sup>Lands belonging to counties may be sold.</sup> of Indiana, That whenever in the opinion of the board of county commissioners, or board doing county business in any

county in this state, that it is for the advantage of the county, to sell and dispose of any real estate belonging thereto, and used as a public asylum for the poor of such county, it shall and may be lawful for the said board, by the president thereof, to sell and dispose of the same, and to make, execute, and deliver to the purchaser or purchasers thereof, a good and sufficient deed therefor.

This act to be in force from and after its passage.

### CHAPTER XXXIII.

AN ACT to amend an act providing for commissioning sheriffs and coroners, and to regulate their duties: approved, January 7, 1834.

[APPROVED, FEBRUARY 16, 1839.]

Coroner may perform his duties by deputy.

Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That in all cases where it shall become necessary for the coroner of any county to perform the duties of sheriff, it shall be lawful for him to perform such duties by himself or deputy, being accountable for the acts of such deputy.

Deputy may perform duties after removal of coroner.

Sec. 2. Hereafter when the office of coroner shall become vacant by death, resignation, or removal, his deputy shall continue to discharge the duties of sheriff, in all cases where the coroner is bound to perform the same, until a coroner shall be commissioned, and qualified into office.

Coroner's list of jury shall authorize the payment of fee.

Sec. 3. Hereafter, when an inquest shall have been taken upon any dead person, the coroner's list of the jury shall authorize the clerk of the circuit court to issue to the jurors the certificate of service, which by existing laws the coroner is required to give.

This act to take effect and be in force from and after its passage and publication in the Indiana Journal.

### CHAPTER XXXIV.

AN ACT granting to the state of Illinois, the right of way within this state, to connect the Northern Cross Rail Road, with the Wabash and Erie Canal, at Perrysville, Indiana.

[APPROVED, JANUARY 30, 1839.]

Right of way granted.

Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the state of Illinois is hereby granted the right of way to connect the Northern Cross rail road in

said state of Illinois, with the Wabash and Erie canal, at a point near to, or at the town of Perrysville, Indiana; and the said state of Illinois shall, in relation to said right of way hereby granted, have all the rights, privileges, and benefits of said road, when constructed in Indiana, that said state has or may have on that portion of the line within Illinois; *Provided*, That said rail road in Indiana shall be commenced in three years and completed in ten.

Sec. 2. For the purpose of the construction of that portion of said rail road within this state, it shall, and may be lawful for said state of Illinois, by their board of public works, or any member thereof, or by any superintendent, engineer, or other agent employed by said state, to enter upon, and take possession of, and use all and singular, any materials of any and every description necessary for the construction and completion of said road, avoiding in all cases, unnecessary damage or injury to the proprietors.

Sec. 3. In all cases where persons may feel aggrieved or injured by the construction of that portion of the said rail road in this state, or by the use of materials for the same, such person so aggrieved or injured, may apply for redress to the commissioner having charge of the Wabash and Erie canal where said rail road shall connect at [with] the same, in the same way and manner as is provided in the 17th section of an act, entitled, "an act to provide for a general system of internal improvements," approved, January 27, 1836; and the sum allowed as provided in the said seventeenth section, shall be paid by the said state of Illinois, in the same way and manner as is provided in an act of the legislature of Illinois, entitled, "an act to establish and maintain a general system of internal improvement," approved, 27th February, 1837; upon such person producing a certificate of the sum allowed, duly authenticated; *Provided however*, That either party feeling aggrieved at such assessment of damages, shall have a right to an appeal to the circuit court.

Sec. 4. That an act, entitled, "an act giving the state of Illinois the right of way within this state, to connect the Northern Cross rail road in Illinois with the Wabash and Erie canal at Perrysville, Indiana," approved, February 17, 1838, be, and the same is hereby repealed.

This act to be in force from after its passage.

May take possession of land, &c.

Remedy when persons are aggrieved.

## CHAPTER XXXV.

AN ACT to provide for an examination and report of the mineral resources of the state, and for other purposes.

[APPROVED, FEBRUARY 18, 1839.]

**State geologist to be appointed.** Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the Governor shall appoint a person of suitable scientific and practical knowledge and acquirements, to be geologist of the state.

**Duty of geologist.** Sec. 2. It shall be the duty of said geologist, to examine in a detailed manner, the productive mineral resources of the state; especially the iron ore, and salt wells, mineral springs, and coal banks, and, after a careful analysis, to report thereon to the legislature; specifying the localities, qualities, and productiveness of the same.

Sec. 3. It shall also be his duty further to prosecute the geological survey of the state already commenced, directing his research especially towards those various mineral articles of commerce, the working of which, may add to the wealth and manufactures of the state.

**To make research with view to promote agriculture.** Sec. 4. And it shall further be his duty to examine and report upon the soil in different portions of the state, with reference to agricultural character, giving his opinion as to the suitability of the same in different locations for various farming or other products; he shall also report whether in his opinion, the raising of silk and the manufacture of sugar from the sugar-beet, can be successfully prosecuted in this state.

**Shall examine line of public works.** Sec. 5. At any time when thereto required by the Governor, he shall institute examinations along the lines of the public works, for the purpose of exploring the materials required in their construction, &c.

**Term of office.** Sec. 6. The state geologist shall hold his situation for one year, from and after the passage of this act.

**Salary.** Sec. 7. His salary shall be fifteen hundred dollars a year; and he shall be allowed for contingent expenses any sum not exceeding two hundred and fifty dollars a year.

**Examinations & experiments as to milk sickness.** Sec. 8. It shall be a part of his duty to make examinations and experiments, connected with the disease commonly called the "milk sickness," with a view to the discovery of the causes and remedy of the same; and to report the result of these experiments annually to the legislature.

This act to take effect and be in force from and after its passage.

## CHAPTER XXXVI.

AN ACT relative to the duty of officers of state.

[APPROVED, FEBRUARY 16, 1839.]

*Be it enacted by the General Assembly of the State of Indiana,* That hereafter the accounts of secretary, auditor and treasurer of state, board of internal improvement, and fund commissioners, and other persons interested with the receipts or disbursements of the public money, shall close on the last day of October, inclusive in each year; nothing in this act shall be so construed as to affect the collectors of the state revenue.

This act to take effect and be in force from and after its passage.

## CHAPTER XXXVII.

AN ACT granting the right of way to Illinois to connect the Northern rail road to the Wabash canal near the town of Williamsport.

[APPROVED, FEBRUARY 18, 1839.]

**Right of way granted.** Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the same rights and privileges, granted to the state of Illinois, to connect the Northern rail road to the Wabash canal, at the town of Covington and Perrysville, be, and the same are hereby granted to said state to connect the rail road to the Wabash canal, near the town of Williamsport in the county of Warren.

Sec. 2. That the said state, be, and the same is hereby authorized, to connect the Alton and Shelbyville rail road with the Wabash river, or with the Wabash and Erie canal at Terre-Haute, on the terms prescribed in the act above referred to.

This act to take effect and be in force from and after its passage.

## CHAPTER XXXVIII.

AN ACT to provide for a re-location of the seat of justice of Scott county.

[APPROVED, FEBRUARY 12, 1839.]

**Commissioners.** Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Henry O. Hedgecoxe of the county

of Clark, Joel Coombs of the county of Washington, Obadiah M. Crane of the county of Jackson, Allen Hill of the county Jennings, and John Chambers of the county of Jefferson, be and they are hereby appointed commissioners to re-locate the seat of justice of Scott county according to the manner hereinafter provided.

Election, &c.

Sec. 1. That it is hereby made the duty of the qualified voters in the county of Scott at the annual election to be held in said county on the first Monday in August next, after the passage of this act, when they are about to vote at said election, to place on each of their ballots at the bottom or on the back thereof the word *removal* or *no removal* as they and each of them may think proper, and that it shall be the duty of the inspectors and judges of said election in counting out the ballots, to carefully note on the tally papers and returns made by them of the polls of said election, the number of votes in favor of removal, as also the number against it, which returns shall be made to the clerk of the circuit court of said county, whose duty it shall be to receive and compare the same, and in the event of there being a majority of the votes in favor of removal, then it shall be the duty of said clerk to inform the sheriff of said county, of such fact, and the said sheriff on receiving such information shall forthwith proceed to notify the commissioners appointed in the first section of this act, to appear at Lexington on the first Monday in September next ensuing thereafter, whose duty it shall be to attend on said day accordingly, or on any other day that a majority of said commissioners may agree on as soon thereafter as practicable; and after taking an oath or affirmation before some justice of the peace of said county, faithfully to discharge the duties enjoined on them by this act to the best of their judgment and abilities, they, or a majority of them, shall proceed to re-locate the seat of justice of said county, placing it at some suitable site, which they may select in said county, as near the centre thereof as the convenience of the citizens and situation of the county will admit of.

Receive proposals when re-located.

Sec. 3. It is hereby made the further duty of the said commissioners to receive propositions made in writing by any person or persons, if any be made, of donations for the purpose of defraying the expense of making the necessary public buildings at the new county seat, and other expenditures incident to the re-location thereof, and deliver the same to the board doing county business in said county, together with the result of their deliberations and decision in re-locating said county seat; and it shall be the duty of the sheriff of said county to summon said board together for that purpose, should they not be in session.

Public property sold.

Sec. 4. The commissioners aforesaid shall take into consideration the donations heretofore made toward the public buildings at Lexington, and ascertain as near as they can, the advantage the county has derived therefrom, and make out a statement thereof, which shall be by them delivered over to the recorder of said county, who shall enter the same on record; and it shall be the duty of the board doing county business in said county, to cause the public property at Lexington, belong-

ing to the county, to be disposed of to the best advantage, as soon as practicable after the public buildings shall have been erected at the new county seat, and to apply the proceeds thereof (or so much as may be necessary) to remunerate the value of the donations aforesaid, their heirs or assigns who made the same.

Sec. 5. It shall be the duty of the board doing county business in said county, to proceed as soon as practicable after the re-location of said seat of justice, to cause the necessary public buildings to be erected at such new county seat according to such manner and form as will be most conducive to the public interest in said county, and so soon as the same shall have been erected, the board doing county business shall direct the clerk of the circuit court and the recorder of the county to remove their offices to such new county seat, and from that time the circuit court and all other courts of said county shall be holden at said county seat; and it shall be the duty of the board doing county business to make such reasonable allowance as they may think just, to the commissioners appointed by this act, which shall be paid out of the county treasury of said county of Scott as other county claims are paid.

Sec. 6. There shall be reserved out of the sale of all lots at the new county seat after the location thereof, *ten per cent.* for the use of the county library, and paid over according to the law regulating county libraries in the state.

This act to take effect and be in force from and after its publication in the Indiana Journal.

## CHAPTER XXXIX.

AN ACT to amend an act, entitled, "an act to regulate the mode of doing county business in the several counties in this state:" approved, February 17, 1838.

[APPROVED, JANUARY 1, 1839.]

Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the first section of said act, be, and the same is hereby amended by inserting "Orange," after the word "Putnam;" in the last line of said section.

Sec. 2. This act shall be in force from and after its publication in the Indiana Journal.

## CHAPTER XL.

AN ACT to provide for the selection of lands accruing to the state of Indiana under the act of Congress of the second of March, 1827, and applicable to the construction of the Wabash and Erie canal west of the Tippecanoe river.

[APPROVED, FEBRUARY 16, 1839.]

Canal lands,  
how to be se-  
lected, &c.

**Sec. 1. Be it enacted by the General Assembly of the State of Indiana,** That whenever the Indian title to the public lands within the limits of this state shall be extinguished, or a sufficient quantity thereof to satisfy the claim of the state for the construction of that part of the Wabash and Erie canal lying west of the Tippecanoe river shall be surveyed, the Governor shall be, and he is hereby authorized to appoint an agent or agents to ascertain the particular lands to which the state is entitled, and report the same to the secretary of the treasury of the United States.

**Sec. 2.** The Governor is hereby requested to continue the correspondence heretofore opened with the commissioner of the general land office, and in the event that the said commissioner should decline to confirm the selections of land made by the state at a distance greater than five miles from the line on which said canal is located, then in that case the Governor shall request that such selected lands shall be withheld from sale by the state, until the title of the state can be legally confirmed.

Expenses, how  
paid.

**Sec. 3.** The expenses incident to the selection of said lands, shall be defrayed out of the moneys heretofore appropriated to the construction of that part of the Wabash and Erie canal west of the Tippecanoe river, and the expense incurred by the Governor heretofore in making selections of said lands, shall be paid in the same manner.

## CHAPTER XLI.

AN ACT to provide for ascertaining the number of deaf mutes in the state.

[APPROVED, FEBRUARY 13, 1839.]

No. of deaf and  
dumb to be ta-  
ken by the as-  
sessor.

**Sec. 1. Be it enacted by the General Assembly of the State of Indiana,** That the assessor or assessors, of each and every county in this state, be, and they are hereby directed and required to take the number of deaf and dumb persons in their respective counties, townships, or districts; in which list the number of those under ten years of age, and those between ten and twenty, and those over twenty, shall be severally designated.

**Sec. 2.** It shall be the duty of the clerks of the several counties to certify the number as returned to them, to the auditor of state, who shall report the same to the General Assembly.

## CHAPTER XLII.

AN ACT to amend the several acts now in force relative to the Wabash and Erie canal lands.

[APPROVED, FEBRUARY 16, 1839.]

**Sec. 1. Be it enacted by the General Assembly of the State of Indiana,** That it shall be the duty of the secretary of state, immediately on the passage of this act, to open a book of register of patents, commencing in numerical order, with the number of the certificate and final receipt, on which he shall enter all patents which may have been or which may hereafter be issued, setting forth a particular description of each tract of land, name of the original purchaser and assignee, (should there be any,) the date of entry and price of the lands per acre, and the total amount.

**Sec. 2.** It shall be the duty of the secretary of state when he issues a patent for any tract of land of the Wabash and Erie canal lands, to record the same at full length in a book to be kept for that purpose, and for the extra duties imposed on him by this act, he shall be allowed clerk hire to the amount of two hundred dollars, to be paid quarterly on his draft on the fund commissioners, out of the funds arising from the sale of the Wabash and Erie canal lands.

This act to be in force from and after its passage.

## CHAPTER XLIII.

AN ACT relative to burying grounds.

[APPROVED, FEBRUARY 16, 1839.]

**Sec. 1. Be it enacted by the General Assembly of the State of Indiana,** That in all cases where any person or persons shall hereafter set apart any portion of ground for a public burying ground, and shall make a deed in fee simple to the board doing county business for the county where such burying ground shall be situated, and to their successors in office forever, shall have the same recorded in the recorder's office of

said county, the same shall be deemed and taken to be dedicated as a public burying place forever; and the board doing county business shall forever hold the same in trust, and for the use above prescribed, and shall never sell or convey the same, for any other purpose whatever.

Corner stones to be fixed. Sec. 2. That in all cases where donors of such ground shall lay the same off into lots, plainly designated by corner stones, and record the same in the record books, then and in that case, persons interring in said burying place shall bury within the lots so designated, leaving the shares as indicated by such corner stones, and record.

Private burying grounds, how set apart. Sec. 3. That if any person or persons shall wish to establish a private burying ground, such person may, and such ground (as they may set apart for such use) to the board doing county business as above set forth, designating in such deed of conveyance that the same is designed for a private burying place; in which case the donors and their heirs shall forever have the right of admitting corpse into the same for interment, and shall direct as to the place where the same shall be buried; *Provided*, That in no case shall one corpse be buried on top of another in any of said burying places, nor shall such burying places pass by deed or descent so as to have the same used for any other purpose whatever, but the same shall remain as such burying place forever.

Penalty for injuring tomb stones, &c. Sec. 4. That if any person shall wilfully disfigure or injure any tomb stone, fence, shade, or ornamental tree around, or within said burying places, or shall use such burying place for any other purpose than that of a grave yard, such person shall be fined in any sum not exceeding one thousand dollars, and may be imprisoned in the penitentiary of the state at the discretion of a jury, any term of time not exceeding two years.

This act to take effect and be in force from and after its passage.

#### CHAPTER XLIV.

AN ACT fixing the salaries of the members of the board of internal improvements.

[APPROVED, FEBRUARY 14, 1839.]

Salaries of board of int. impt. Sec. 1. *Be it enacted by the General Assembly of the State of Indiana*, That from and after the first Monday of March next, the salaries of each member of the board of internal improvements shall be fifteen hundred dollars per year, but no contingent expenses; and the salary of the chief engineer shall be two thousand five hundred dollars a year.

This act to be in force from and after its passage.

#### CHAPTER XLV.

AN ACT to amend an act, entitled, "an act to regulate the mode of doing county business in the several counties in this state;" approved, February 17, 1838.

[APPROVED, DECEMBER 20, 1838.]

Amendment. Sec. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the the last line of the first section of said act is hereby corrected by inserting "Crawford" immediately after the word "Putnam."

This act shall be in force from and after its publication in the Indiana Journal.

#### CHAPTER XLVI.

AN ACT for the protection of the Madison and Indianapolis rail road, and the collection of tolls thereon.

[APPROVED, FEBRUARY 14, 1839.]

Penalty for injuring locomotive, &c. Sec. 1. *Be it enacted by the General Assembly of the State of Indiana*, That if any person or persons shall wilfully or maliciously break, throw down, set fire to, destroy or injure any part of a locomotive, or stationary engine, engine house, bridge, culvert, rail road track, building, or structure, belonging or appertaining to the Madison and Indianapolis rail road, or shall wilfully or wantonly obstruct said rail road, or do any damage to the materials thereof, or shall put any stone, timber, iron, earth or other substance thereon, or shall attempt to use on said road any car that may have been pronounced unsafe or imperfect by the proper agent of the state, or do any act in relation to said rail road whereby the lives of persons or the property transported on the same shall be endangered, such person or persons for every such offence, shall upon conviction thereof by presentment or indictment before any court of competent jurisdiction, be sentenced to pay the damage caused by such offence, and be imprisoned at hard labor in the state prison for any length of time not less than six months nor more than five years.

Penalty for injuring engine house, &c. Sec. 2. That if any person or persons shall wantonly or maliciously derange or displace any fixture or any part of the machinery of any locomotive or stationary engine, engine house, or car, of any inclined plain used or employed on the Madison and Indianapolis rail road, or shall put in motion any machine, engine, car or other vehicle upon or belonging to said rail road, without the consent of the person having the charge of the same, or shall injure any fence or wall or cross road passing over or under said rail road, such person or persons for every

such offence shall upon conviction thereof, forfeit and pay to the state one hundred dollars, together with the amount of any damages caused by such offence, recoverable by action of debt in the name of the state of Indiana, before any court having competent jurisdiction thereof.

Riding on the  
embankment,  
&c.

Sec. 3. That if any person shall, without the consent of the person having charge of the rail road, either lead, drive, or ride, or cause to be led, rode or driven, any horse, ox, or mule, or other animal on such rail road, or upon the embankments or excavations of the same, or over any bridge belonging thereto, except at places proposed for the crossing of the rail road, such person or persons shall for every such offence, forfeit and pay to the state the sum of fifteen dollars, recoverable by action of debt as aforesaid.

Not to build  
platform on said  
road.

Sec. 4. No person shall construct any building, wharf or platform, switch, sideway, lateral rail road or crossing place, or make or apply any device whatever on the ground set apart for, or belonging to, or forming part of, or on the banks or excavation of the Madison and Indianapolis rail road without permission given under the authority of the board of internal improvement, which permission shall only be given in writing by a person duly authorized for that purpose; and if any person shall commence or make any such construction or device, without such permission or shall not conform to the direction of the proper officer or agent of the state in the construction of such building, wharf, platform, switch, or swivel, sideway, lateral rail road, crossing place or device, as aforesaid, such person shall for every such offence forfeit and pay a sum not exceeding one hundred dollars, and the officer or agent having charge of such rail way, may at the expense of such person, remove and destroy every such structure or device as aforesaid.

B'd of int. imp.  
make regula-  
tions, &c.

Sec. 5. That the board of internal improvement shall, from time to time, make and enforce such additional rules and regulations, not inconsistent with the laws of this state, in respect to the form and structure of locomotive engines, cars, ropes, &c. used upon the rail road, for weighing and inspecting such engines and other vehicles, and for their management and use, for the collection of tolls, and in respect to all matters connected with the use and preservation of the rail road.

Persons who  
may bring suit.

Sec. 6. That for all damages done to any part of the rail road, and for all penalties and forfeitures imposed by this act, other than for offences punishable by punishment or indictment any member of the board of internal improvement, engineer, superintendent or collector of tolls is authorized to bring suit by action of debt against the offender or offenders in the name of the state of Indiana before any court of competent jurisdiction, and the amount recovered over and above the expense of suit, shall be paid to the nearest collector of tolls which shall be by him paid over to the fund commissioners for the benefit of the internal improvement fund.

B'd in't imp't  
establish rates of  
toll.

Sec. 7. The board of Internal Improvement are hereby authorized and empowered to establish such rates of toll or other charges for property or passengers, as they may deem rea-

sonable and most consistent with the public interest, to be collected on said rail road; to make all necessary regulations in regard to the collection of the same, and to appoint as many collectors of tolls, and at such points on said road as they may deem necessary, to secure the faithful and punctual collection of tolls with the least possible expense to the state; and said board shall allow to each collector, or other necessary agent, such annual salary for their services as they may deem reasonable in each case, with reference to the portion of time required for the performance of their duties.

Sec. 8. Collectors of tolls previous to entering upon their <sup>Collectors enter</sup> duties, shall each enter into bonds to the state of Indiana, in <sup>into bond.</sup> such sums respectively, as the board of internal improvement may require, and with such securities as they may approve, for the faithful performance of their duties, and for the faithful accounting for all moneys belonging to the state that may come into their hands, either as tolls, fines, or otherwise.

Sec. 9. All expenses in keeping said road in repair, or lo- <sup>Expenses, how</sup> comotives and cars, shall be paid out of the tolls collected on <sup>paid.</sup> said road under the direction of the board of internal improvement.

Sec. 10. The compensation or pay of the engineer, firemen, and other agents necessary to the proper execution and business connected with the motive and cars, shall be paid out of tolls collected on said road, under such rules as may be prescribed by said board.

## CHAPTER XLVII.

AN ACT to amend "an act for the relief of the poor;" approved, February 17, 1838.

[APPROVED, FEBRUARY 16, 1839.]

Sec. 1. *Be it enacted by the General Assembly of the Township poor State of Indiana,* That it shall be the duty of the superinten- <sup>to be rec'd into</sup> dents of asylums for the poor, to receive into the asylum all transient as well as settled poor when thereto required by the overseers of the poor of the proper county.

This act to take effect and be in force from and after its passage.

## CHAPTER XLVIII.

AN ACT to authorize the fund commissioners to make titles and execute releases to property held by the state out of the state of Indiana.

[APPROVED, FEBRUARY 18, 1839.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That the fund commissioners be, and they are hereby authorized for, and on behalf of the state of Indiana, to enter satisfaction upon, and release any mortgage or mortgages which have been or may hereafter be executed by any person or persons or corporation, to secure to this state any debt now due, or which hereafter may be due the state; upon payment of such debts being made, and such mortgages when so satisfied or released by the fund commissioners, or either of them, shall be considered as fully discharged and satisfied to all intents and purposes.

*Sec. 2. The fund commissioners or either of them shall have full power and authority for and in behalf of the state of Indiana upon sale being made of any of the real estate taken by them in the settlement of the claims of the state against Messrs. Cohens and Josephs, to execute to the purchasers thereof deeds of conveyance in the name of the state of Indiana, with such covenants as to them may seem expedient, which deed shall be considered as valid and binding upon the state, and shall pass to such purchasers all the title and interest of the state either legal or equitable to such property.*

This act to be in force from and after its passage.

## CHAPTER XLIX.

AN ACT amendatory of an act, entitled, "an act for the formation of the county of Blackford": approved, February 15, 1838.

[APPROVED, JANUARY 29, 1839.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That the said county of Blackford shall from and after the passage of this act enjoy all the rights and privileges, benefits and jurisdictions, which do, or may properly belong or appertain to separate, or independent counties.

*Sec. 2. That William H. Parmelee of the county of Wells, Samuel W. Harlan of the county of Delaware, John Hodge of the county of Grant, William R. Hale of the county of Wabash, George A. Fate of the county of Huntington, are hereby appointed commissioners agreeably to the act, entitled, "an act*

Organization.

Comm'r to locate seat of justice.

fixing the seats of justice in all new counties to be hereafter laid off;" the commissioners aforesaid, shall meet on the second Monday of February next, or at some subsequent time, at the house of Andrew Boggs in said county of Blackford, and shall immediately proceed to discharge the duties assigned them by law; and it shall be the duty of the sheriff of Grant county to notify said commissioners either in person or by written notice of their appointment at least ten days previous to the time of their meeting, which day shall, in case they fail to meet on the said second Monday in February, be designated by said sheriff, and for such services the board of commissioners of the county of Blackford shall allow such compensation as they shall deem just and reasonable.

*Sec. 3. The circuit court, and board of county commissioners when elected under the writ of election from the executive department shall meet at the house of Andrew Boggs, and hold their first session, and adjourn to as near the centre of the county as a convenient place can be had, until buildings shall have been erected.*

*Sec. 4. The board doing county business, may as soon as elected and qualified, hold special sessions not exceeding three, during the first year after the organization of said county, and shall appoint an assessor, and make all other, and necessary appointments, and do and perform all other business that might have been necessary to be performed at any other session, and take all necessary steps to collect the state and county revenue, any law to the contrary notwithstanding.*

*Sec. 5. So much of an act, entitled, "an act for the formation of the county of Blackford," approved, February 15, 1838, as makes the southeast corner of section eight, township twenty-two, range twelve east, the southeast corner of said county, be and the same is hereby declared a misprint; the said corner was intended to be, and is hereby declared to be the northeast corner of section eight, township twenty-two, range twelve east.*

*Sec. 6. That so much of the act to which this is amendatory, be, and the same is hereby repealed, and this act to be in force from and after its publication in the Indiana Journal.*

Courts, where holden.

Misprint.

## CHAPTER L.

AN ACT to authorize persons to remove fences made by mistake on the lands of other persons.

[APPROVED, FEBRUARY 16, 1839.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That when any person or persons who may have heretofore or hereafter made by mistake, erect, build, or make any fence or fences or other enclosures on the lands of

Fences erected by mistake may be removed.

other persons, then and in that case when the line or lines are legally run by the proper authority, and the fences or enclosures are known to be on the lands of such other person or persons, the person or persons making such fences or enclosures as aforesaid, through mistake, shall be empowered and authorized by this act to enter into the lands of such other persons, and take away the materials of which said fences or enclosures are made within six months from the time said line or lines may be so legally run or established, he or they paying or tendering to the owner of the lands on which said fences or enclosures are built, all damages that may accrue in consequence of passing over the ground of said other person.

Sec. 2. That when either the owner of the rails or materials aforesaid, or the owner of the lands is desirous of having the line or lines run or established dividing such lands, the person or persons wishing such survey, shall give to the other person or their legal representatives, notice in writing at least ten days before such survey is made of the time and place thereof.

Sec. 3. That the owner or owners of any lands whereon fences or enclosures may have been made by mistake as aforesaid, shall not throw down or in any manner disturb or enjoin the same for the term of six months from the time such mistake is discovered as aforesaid.

Sec. 4. That none of the materials of said fences or inclosures shall be removed as aforesaid, where the said materials shall have been taken from the lands of such other persons.

Fences shall not be thrown down for 6 months.

Materials shall not be removed.

## CHAPTER LI.

AN ACT to authorize the purchase of a suitable residence for the Executive of the state of Indiana.

[APPROVED, FEBRUARY 13, 1839.]

Sec. 1. Be it enacted by the General Assembly of the State of Indiana, That the treasurer, auditor, and secretary of state be, and they are hereby authorized and required to purchase at as early a day as practicable, within the town of Indianapolis, a suitable piece of ground or situation, with buildings erected thereon, for the residence and accommodation of the Governor of the state, on the best terms that such property can be had, with due regard to convenience, neatness and durability, and other necessary fixtures, so that the character and interest of the state may be promoted thereby.

Sec. 2. That the said treasurer, auditor, and secretary shall, when such contract is entered into with any individual or individuals, be required to pay such sums as may be agreed on by the parties contracting, out of any money in the treasury belonging to the Indianapolis fund, not otherwise appropriated; and further, if there should not be a sum sufficient in the treasury of the fund referred to, then and in that case,

Residence for executive to be purchased.

Time and mode of payment.

the said officers of state, be, and they are hereby authorized and required to pay the sums agreed on, out of any money in the treasury of the state, not otherwise appropriated, but the same amount thus drawn, to be reimbursed to the state treasury out of any money which may arise from the sale of lots in the town of Indianapolis.

Sec. 3. That if there shall not be due, or coming to the Indianapolis fund, a sum sufficient from lots heretofore sold to reimburse the sums thus drawn from the state treasury, then in that case, the agent for the town of Indianapolis, with the above named officers, shall bring into market, as much of the public ground or unsold lots in said town, as shall be sufficient to realize the necessary fund to meet such deficiency, at as early a date as convenient.

Sec. 4. All grants, deeds, or bonds, that shall be taken from said individual or individuals by the officers contracting, shall be in the name of the state of Indiana, and shall be recorded in the recorder's office of the county, and then filed in the auditor's office for safe keeping.

Sec. 5. That so soon as the said property is surrendered to the state, and the Governor notified of the same, and takes possession thereof, from that time forward he shall receive nothing by way of house rent from the state.

Sec. 6. All laws and parts of laws contravening the provisions of this act be, and the same are hereby repealed.

This act to take effect from and after the date of its passage.

Lots in Indianapolis may be sold.

House rent for gov. to cease.

## CHAPTER LII.

AN ACT supplemental to an act, entitled, "an act for the appointment of trustees to receive deeds for lots or lands, given or purchased for the use of schools, meeting houses or masonic lodges;" approved, February 10, 1831.

[APPROVED, FEBRUARY 16, 1839.]

Sec. 1. Be it enacted by the General Assembly of the State of Indiana, That the church wardens and vestry men of any congregation of the Protestant Episcopal church in this state, who may be chosen in the manner prescribed for the election of trustees by the act to which this is supplemental, or in accordance with the rules and usages of said Protestant Episcopal church in this state, shall, after a record of their election shall have been made as provided by the act to which this is a supplement, be vested with all the powers and authority conferred on trustees by said act for the purposes therein named, and by their title of church wardens and vestry men of \_\_\_\_\_ church, \_\_\_\_\_ shall be authorized to contract and be contracted with, and sue and be sued in any court of this state.

Church wardens have the same power as trustees.

Sec. 2. When a vacancy shall happen in consequence of the death, resignation or removal from office of any church warden or vestry man elected in pursuance of the provisions of this act, the remaining members of the vestry in which such vacancy may occur shall be authorized to appoint another person to fill such vacancy until the next regular election.

This act to take effect and be in force from and after its passage.

### CHAPTER LIII.

AN ACT to amend an act, entitled, "an act relative to county boundaries;" approved, February 17, 1838, so far as the same concerns the counties of Porter, Lake and Newton.

[APPROVED, FEBRUARY 11, 1839.]

County line established. Sec. 1. *Be it enacted by the General Assembly of the State of Indiana.* That the bed of the Kankakee river shall, and is hereby declared to be the north boundary of Newton county, and all that territory heretofore belonging to Newton county north of the Kankakee river, shall form and constitute a part of Porter and Lake counties according to their present boundaries.

Repeal. Sec. 2. All that part of the seventy-fifth section of the act to which this is an amendment, defining the north boundary of Newton county, be, and the same is hereby repealed.

This act to take effect and be in force from and after its publication in the Indiana Democrat.

### CHAPTER LIV.

AN ACT to amend an act, entitled, "an act to regulate the mode of doing county business in the several counties of this state;" approved, February 17, 1838.

[APPROVED, JANUARY 29, 1839.]

County, how laid off. Sec. 1. *Be it enacted by the General Assembly of the State of Indiana.* That the board of justices doing county business in and for the county of Monroe, be, and they are hereby required at the March term of the said court of justices aforesaid, to divide and lay off said county into three equal commissioners' districts in the same manner as is prescribed by the act to which this act is amendatory; and that they order the election for said commissioners to be holden on the third Mon-

day of April, 1839, at the usual place of holding elections in the several townships of said county.

Sec. 2. That said election for said commissioners shall be Election, how conducted. conducted in the same manner and be governed in all particulars as general elections are now conducted and governed by the laws now in force in this state, and that said commissioners when elected, shall have and possess all the powers, and perform all the duties required of them by the act to which this is amendatory; and the said act is hereby declared to be in full force in said county of Monroe, except so far as it contravenes the provisions of this act.

This act to be in force from and after its publication in the Bloomington Post.

### CHAPTER LV.

AN ACT to amend an act, entitled, "an act for the incorporation of county libraries.

[APPROVED, FEBRUARY 15, 1839.]

Sec. 1. *Be it enacted by the General Assembly of the State* Board doing co. business in Lawrence co. to appoint trustees. *That hereafter it shall be the duty of the board* doing county business for the county of Lawrence in this state, annually at the fall term of their court, to appoint five trustees of the county library, any three of whom shall form a quorum for the transaction of business, whose duty it shall be to do and perform all the duties contemplated in the act to which this is an amendment.

Sec. 2. *And be it further enacted,* That such board of trustees shall not be restricted in the amount of property they may hold in their corporate capacity.

Sec. 3. So much of the act to which this amendatory, be, and the same is hereby repealed, so far as the county of Lawrence is concerned.

This act to take effect and be in force from and after its passage.

## CHAPTER LVI.

AN ACT to define the boundaries of the counties of St. Joseph, Marshall, Laporte, Starke, Porter and Lake.

[APPROVED, FEBRUARY 16, 1839.]

Boundary of St. Joseph co.

Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the following shall constitute the boundaries of the counties following, to wit: St. Joseph county shall be bounded as follows, by a line commencing on the north boundary of this state at the intersection thereon of the section line running north and south through the centre of range four east, thence south to the centre of township thirty-five north, thence west to the second meridian line, being that line between ranges one east and one west, thence south to the township line between townships thirty-four and thirty-five north, thence west to the section line running north and south through the centre of range one west, thence north by said section line to the north boundary of this state, thence east to the place of beginning.

Marshall.

Sec. 2. The boundaries of the county of Marshall shall be as follows, to wit: By a line beginning at the southeast corner of St. Joseph county, thence south to the line between townships thirty-one and thirty-two north, thence west on said line to the meridian line before mentioned, thence north to where the boundary line of St. Joseph county intersects said meridian line between sections eighteen and nineteen in township thirty-five north, thence east with the line of St. Joseph county to the place of beginning.

Laporte.

Sec. 3. The boundaries of the county of Laporte shall be as follows, to wit: On the east by St. Joseph county, on the south by the line running between townships thirty-four and thirty-five north, on the west by the range line between ranges four and five west, on the north west and north by the northern boundary of this state.

Starke.

Sec. 4. The boundaries of Starke county shall be as follows, to wit: On the east by Marshall county, on the south by the line between townships thirty-one and thirty-two north, on the west by the line between ranges four and five west, and on the north by Laporte and a part of St. Joseph counties.

Porter.

Sec. 5. The boundaries of the county of Porter shall be as follows, to wit: Bounded on the east by Laporte and Starke counties, on the north by the north boundary of this state, on the west by the section line running north and south through the centre of range seven west, and on the south by the Kankakee river.

Lake.

Sec. 6. The boundaries of Lake county shall be as follows, on the north and west by the boundaries of this state, on the east by Porter county and on the south by the Kankakee river.

Sec. 7. All laws and parts of laws contravening the provisions of this act are hereby repealed.

This act to be in force from and after its publication in the Indiana Democrat.

## CHAPTER LVII.

A JOINT RESOLUTION on the subject of locating the northern end of the Central Canal.

[APPROVED, FEBRUARY 12, 1839.]

Whereas, That in consequence of the unsettled opinions as Preamble to the proper point for connecting the Central canal north, with the Wabash and Erie canal, the people interested with the final location of said point are left in an unprofitable situation owing to the uncertainty of making their improvements to advantage, and to suit their convenience when the locotion shall be made; and whereas, the surveys and examinations will cost no more at this time than at any time hereafter, and that in consequence of the improvements which must follow a permanent location of said point, will add wealth and prosperity to the country, and thereby advance the interest of the state, therefore,

*Be it resolved by the General Assembly of the State of Indiana,* That the acting commissioner or other officers, that may be hereafter entrusted with the superintendence of the northern division of the Central canal, shall early in the summer of 1839, cause all necessary surveys and estimates to be made on the different routes, in order to enable the board of public works to decide upon the most suitable point for the connection of the Central, with the Wabash and Erie canal; *Provided*, such surveys and examinations can be made with- *Proviso*. out the employment of a corps of engineers in addition to the engineers appointed to superintend the construction of the northern end of the Central canal.

*Be it further resolved,* That so soon as the said surveys and estimates are made, the board of public works shall proceed to examine the said surveys and estimates, and after all matters connected therewith be fairly considered, said board shall decide and fix upon the point where the Central canal shall connect with the Wabash and Erie canal, having in view the importance of the work and the interest of the state at large.

*Be it further resolved,* That the engineer-in-chief shall cause the connecting work between the White-water and Central canals to be located as early in the ensuing season as practicable; said location to be made with a view to the construction of a rail road from the Central canal or Muncietown feeder or a canal as far as practicable and the residue by McAdamized turnpike road; or the entire connexion to be made by McAdamized road, upon the nearest, best and cheapest route from one point on the Central canal or Muncietown feeder, to some suitable point on the White-water canal, whichever may upon examination, be found most conducive to the public interest, and least expensive to the state, any law now in force to the contrary notwithstanding; *Provided*, such survey and examination can be made without the employment of a corps of engineers in addition to the engineers appointed to superintend the construction of the White-water canal.

Chief engineer cause to be located, &c.

*Proviso*

Central canal.

*And be it further resolved*, That the chief engineer shall cause to be located as early in the ensuing season as practicable, that part of the Central canal which lies between Martinsville and the mouth of Eel river; *Provided*, That such location can be made without the employment of a corps of engineers in addition to the engineers appointed to superintend the construction of the southern division of the Central canal.

Proviso.

This joint resolution to be in force from and after its passage.

### CHAPTER LVIII.

AN ACT to enable the several school commissioners to distribute certain school funds derived from the surplus revenue, lands forfeited for the non-payment of taxes, and the sum heretofore set apart for poll tax for common school purposes.

[APPROVED, FEBRUARY 18, 1839.]

Assessor shall take list of taxable polls.

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana*, That it is herein made the duty of the several assessors of taxable property in this state the present year and annually thereafter, to take a list of the taxable polls according to congressional townships or parts of townships as may be situated in their respective assessment districts, keeping separate lists numbered with the proper range and township, and return the same to the school commissioner of their respective counties at the same time that he is bound to make return to the board doing county business; and such board is required to make such additional compensation to said assessors for such services as will be reasonable and right, having due regard to the amount of additional labor.

*Sec. 2. It shall be the duty of the several school commissioners to make semi-annual dividends of all funds in their hands arising from poll tax, forfeited land and surplus revenue, agreeably to the several laws creating said funds upon the first Mondays of March and September, and shall give the assessor a certificate upon his presentation of the list of taxable polls as aforesaid, which shall be evidence to the board doing county business of his faithful performance of said duty on the part of the assessor.*

School commr's make semi-annual dividends, &amp;c.

### CHAPTER LIX.

AN ACT for the relief of persons owning canal lands.

[APPROVED, FEBRUARY 18, 1839.]

*Be it enacted by the General Assembly of the State of Indiana*, That it shall and may be lawful for any person or persons who may be the owner or owners of any canal lands, which have or may hereafter become forfeited for the non-payment of interest due thereon, to redeem such lands by paying to the officer authorized by law, to receive such payment of interest, the amount which may be due, together with one hundred per centum per annum on the amount so due.

All laws and parts of laws contravening the provisions of this act, be, and the same are hereby repealed.

This act to be in force from and after its passage.

### CHAPTER LX.

AN ACT to amend an act, entitled, "an act to extend the Erie and Michigan canal," approved, February 4, 1837.

[APPROVED, FEBRUARY 14, 1839.]

*Be it enacted by the General Assembly of the State of Indiana*, That so much of the act to which this is an amendment, as relates to the payment of the expenses of the survey of the said Erie and Michigan canal, by the counties of St. Joseph, Lake, Porter, and Laporte, and that portion which confines said survey to the Grand Calamut river, be, and the same is hereby repealed.

This act to be in force from and after its passage.

### CHAPTER LXI.

AN ACT to provide for the selection and summoning of grand and petit jurors for the counties of Carroll and Clinton, at the April term of the Carroll and Clinton circuit courts, 1839.

[APPROVED, FEBRUARY 15, 1839.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana*, That it shall be the duty of the board doing county business in the counties of Carroll and Clinton, at their next March session to cause to be selected from the list of

taxable persons in said counties, the names of eighteen grand jurors who shall be good reputable freeholders, resident in said counties, to serve as grand jurors at the April term of the circuit court of Carroll and Clinton counties, and twenty-four petit jurors who shall be good reputable freeholders or householders, resident in said counties to serve as petit jurors at the April term of the said circuit court.

B'd, how form-  
ed. Sec. 2. And the said board in making such selection as is provided for in the first section of this act, together with all persons concerned, shall be governed by the same rules and [be] subject to the like restrictions and penalties as are provided for by an act to regulate the mode of summoning and empanneling grand and petit jurors, approved, February 17, 1838.

Sec. 3. This act shall take effect and be in force from and after its passage and publication in the Indiana Democrat and Journal, papers published in the town of Indianapolis.

## CHAPTER LXII.

AN ACT to change the mode of doing county business in the county of Posey, and for other purposes.

[APPROVED, DECEMBER 13, 1838.]

Co. business  
done by b'd of  
commr's.

Place of holding  
elections.

Board may hold  
offices.

Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the mode of doing county business in Posey county, shall hereafter be by a board, consisting of three commissioners, and not by a board consisting of the justices of the peace of said county.

Sec. 2. That an election shall be held in said county at the usual place of holding elections in each township therein, on the first Monday in January, eighteen hundred and thirty-nine, for the election of three commissioners, to constitute a board for doing county business in said county, of which election, it shall be the duty of the clerk of the court of said county, to give notice by public advertisement throughout the county, at least ten days previously to said election.

Sec. 3. That said board of commissioners shall be commissioned and shall hold their offices, for the same term of time and in the same way, and shall perform the same duties and exercise the same powers, as if they had been elected on the first Monday in August, eighteen hundred and thirty-eight, under the provisions of an act, entitled, "an act to regulate the mode of doing county business in the several counties in the state," approved, February 17, 1838.

Time of holding  
meetings. Sec. 4. That said board shall hold their January term for the year eighteen hundred and thirty-nine, on the third Monday of said January.

Sec. 5. That all things whatsoever, which shall or should be the duty of said board to do or perform at their January term aforesaid, (including the appointment of an assessor,) or at their term next preceding the same, it shall be their duty to perform at their term commencing on the third Monday of January, as hereinbefore provided; and that all acts and doings of said court during said term, commencing on said third Monday of January aforesaid, shall have the same force and effect, as if said court had been holden on the first Monday in November, eighteen hundred and thirty-eight, and on the first Monday in January, eighteen hundred and thirty-nine.

Districts. Sec. 6. That for the purpose of the above election of commissioners, the townships of Bethel, Robb, and Smith, shall constitute the first district; the townships of Harmony, Lynn, and Robinson, shall constitute the second district; and the townships of Black, Mars, and Point, shall constitute the third district, all of said county of Posey.

Sec. 7. That all laws and parts of laws contravening all or Repeal. any of the provisions of this act, be, and the same are hereby repealed.

This act to take effect and be in force from and after its passage.

## CHAPTER LXIII.

AN ACT attaching certain territory to the counties therein named, and for other purposes.

[APPROVED, FEBRUARY 16, 1839.]

Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That so much of the great Miami reservation south of Cass county, and north of Clinton, and west of the range line dividing ranges two and three east, shall be attached to the county of Carroll for judicial purposes.

Sec. 2. So much of said reservation as is south of Cass county, and north of the township line dividing townships twenty-two and twenty-three, and bounded on the west by the boundary of Carroll as established by the preceding section, shall be attached to the county of Cass for judicial purposes.

Sec. 3. So much of said reservation as is south of the county of Miami, and north of the said township line dividing townships twenty-two and twenty-three, shall be attached to the county of Miami for judicial purposes.

Sec. 4. So much of said reservation as is west of the county of Grant, and not included in the said county of Miami by the preceding section, shall be attached to the county of Grant for judicial purposes.

Sec. 5. So much of said reservation as is north of the county of Hamilton, and south of the township line dividing townships.

ships twenty-two and twenty-three, is hereby attached to the said county of Hamilton for judicial purposes, and the said counties to which the said territory is hereby temporarily attached, shall exercise all the rights, privileges and jurisdictions in and over said territory, that to said counties belong according to law in other cases, and when the population in such attached territory will warrant, shall form the same into townships and order the elections of justices of the peace, and other township officers, and the inhabitants of such attached territory shall be entitled to, and exercise all the rights and privileges that other citizens of said counties are entitled to.

County of Richardville to be formed.

Sec. 6. The territory which is by this act temporarily attached to the counties of Carroll, Cass, Miami, Grant, and Hamilton, shall form and constitute a separate county to be known and designated by the name of Richardville, and at such time as the Indian title shall be extinguished and the population within the same will warrant, the said county shall be organized as a separate county.

Extent of jurisdiction.

Sec. 7. The circuit courts of the counties to which the Miami reservation is attached for judicial purposes, shall have jurisdiction and authority to try all offences committed within said territory, in as full and ample a manner as if the Indian title to the same was extinguished; *Provided however*, That Indians residing within said territory, shall not be subject to punishment for violations of the criminal laws of the state, except in cases of grand and petit larceny, where the same shall have been committed upon the property of citizens of this state, and in cases in which an Indian or person residing with Indians, and considered as belonging to the tribe shall feloniously steal, take, or carry away the personal goods of any citizen of this state; such Indian shall be deemed and taken to be guilty of grand or petit larceny, as the case may be, and upon conviction thereof by a competent jury, according to law, shall be subject to the punishment prescribed in like cases, in the sixth section of the act, entitled, "an act relative to crime and punishment," approved, February 10, 1831, excepting that the fines prescribed in cases of larceny in said section, as part of the punishment, shall not in any case, upon conviction of an Indian for grand or petit larceny, be made a part of the punishment, and it is hereby made the duty of the circuit courts of the proper counties, to give this act in charge to their respective grand juries.

Indians may be punished for larceny, &c.

County of Richardville to be formed.

Extent of jurisdiction.

Sec. 6. The territory which is by this act temporarily attached to the counties of Carroll, Cass, Miami, Grant, and Hamilton, shall form and constitute a separate county to be known and designated by the name of Richardville, and at such time as the Indian title shall be extinguished and the population within the same will warrant, the said county shall be organized as a separate county.

Sec. 7. The circuit courts of the counties to which the Miami reservation is attached for judicial purposes, shall have jurisdiction and authority to try all offences committed within said territory, in as full and ample a manner as if the Indian title to the same was extinguished; *Provided however*, That Indians residing within said territory, shall not be subject to punishment for violations of the criminal laws of the state, except in cases of grand and petit larceny, where the same shall have been committed upon the property of citizens of this state, and in cases in which an Indian or person residing with Indians, and considered as belonging to the tribe shall feloniously steal, take, or carry away the personal goods of any citizen of this state; such Indian shall be deemed and taken to be guilty of grand or petit larceny, as the case may be, and upon conviction thereof by a competent jury, according to law, shall be subject to the punishment prescribed in like cases, in the sixth section of the act, entitled, "an act relative to crime and punishment," approved, February 10, 1831, excepting that the fines prescribed in cases of larceny in said section, as part of the punishment, shall not in any case, upon conviction of an Indian for grand or petit larceny, be made a part of the punishment, and it is hereby made the duty of the circuit courts of the proper counties, to give this act in charge to their respective grand juries.

## CHAPTER LXIV.

AN ACT to regulate the jurisdiction of justices of the peace in the county of Bartholomew.

[APPROVED, DECEMBER 20, 1838.]

*Be it enacted by the General Assembly of the State of Indiana*, That hereafter no person who is a householder, shall be bound to answer to any summons or other process, issued by any justice of the peace in the county of Bartholomew in any civil suit, in any township, other than the one in which said defendant actually resides; unless there shall be no justice in said township who can legally issue such summons or other process; then and in that case, it shall be lawful to commence such suit in the next nearest township; *Provided however*, That either party shall have a right to change the venue, as heretofore.

This act to be in force from and after its publication in the Indiana Journal.

## CHAPTER LXV.

AN ACT providing for the further construction of the Madison and Lafayette rail road.

[APPROVED, FEBRUARY 6, 1839.]

Sec. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the sum of four hundred thousand dollars, be, appropriated to and the same is hereby appropriated to the Madison and Lafayette rail road, in addition to the sum heretofore appropriated to said road, to be borrowed by the canal fund commissioners, on the credit of the state in the same manner that other money is borrowed for the purposes of internal improvements; which sum shall be applied to the construction of said road, between Madison and Indianapolis in such manner and at such times as the board of internal improvements shall direct, and upon the same principles that specific appropriations are required to be expended.

Sec. 2. The fifth section of the act, entitled, "an act to change the character of a part of the Madison and Lafayette road," approved, February 14, 1838, is hereby repealed.

This act to take effect and be in force from and after its passage.

## CHAPTER LXVI.

AN ACT to amend an act incorporating congressional townships, and providing for public schools therein, approved, February 17, 1838.

[APPROVED, FEBRUARY 12, 1839.]

Preamble.

*Whereas*, The law providing for the sale of the sixteenth section makes it the duty of the school commissioner to advertise the sale of the said sixteenth section in some public newspaper, *and whereas*, the said law only allows the said commissioner one dollar to pay for such advertisements, *and whereas*, Corpus Shaw, school commissioner of Greene county, did apply to the editor of the Bloomington Post to advertise the sale of section sixteen in township seven, north of range five west, in said Greene county, *and whereas*, the said editor refused to publish the same for one dollar, *and whereas*, the said school commissioner did proceed to sell the said land, without the same being published in any public paper; therefore,

*SEC. 1. Be it enacted by the General Assembly of the State of Indiana*, That the sale of said land is hereby legalized, and other land sold by said commissioner in the same manner, is hereby legalized.

*SEC. 2. That hereafter the school commissioners of the several counties shall be allowed such compensation as the boards doing county business may deem just and reasonable for advertising the sale of the school lands in a public newspaper.*

This act to take effect and be in force from and after its publication.

School comm'r allowed for advertising, &c.

Land, sale of legal-  
ized.

Persons aggrieved,  
ed, how reliev'd.

Proviso.

said state of Illinois by their board of public works, or any member thereof, or by any superintendent, engineer or other agent employed by said state, to enter upon and take possession of, and use all and singular, any materials of any and every description necessary for the construction and completion of said road, avoiding in all cases, unnecessary damage or injury to the proprietors.

*Sec. 3. In all cases where persons may feel aggrieved or injured by the construction of that portion of said rail road in this state or by the use of materials for the same, such person so aggrieved or injured, may apply for redress to the commissioner having charge of the Wahash and Erie canal, where said rail road shall connect with the same; in the same way and manner as is provided in the 17th section of an act, entitled, "an act to provide for a general system of internal improvements," approved, January 27, 1836; and the sum allowed, as provided in said seventeenth section, shall be paid by the said state of Illinois, in the same way and manner as is provided in an act of the legislature of Illinois, entitled, "an act to establish and maintain a general system of internal improvements," approved, February 27, 1837; upon such person producing a certificate of the sum allowed, duly authenticated; *Provided however*, That either party feeling aggrieved, shall have the right to an appeal to the circuit court.*

This act to be in force from and after its passage.

## CHAPTER LXVII.

AN ACT granting the state of Illinois the right of way within this state, to connect the Northern Cross rail road with the Wabash and Erie canal at Covington, Indiana.

[APPROVED, JANUARY 28, 1839.]

Right of way granted.

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana*, That the state of Illinois is hereby granted the right of way, to connect the Northern Cross rail road in said state of Illinois with the Wabash and Erie canal at a point at the town of Covington, Indiana; and the said state of Illinois shall, in relation to said right of way hereby granted, have all the rights, privileges, and benefits of said road when constructed in Indiana, that said state has, or may have, on that portion of the line within Illinois; *Provided*, That said rail road in Indiana shall be commenced in three years and finished in ten.

*Sec. 2. For the purpose of the construction of that portion of said rail road within this state, it shall and may be lawful for any lands, &c.*

## CHAPTER LXVIII.

AN ACT to amend an act, entitled, "an act relative county boundaries;" approved, February 17, 1838.

[APPROVED, FEBRUARY 11, 1839.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana*, That the first set of words which read thus: "thence east twenty-one miles," in the forty-eighth section of the act to which this is an amendment, be, and the same are hereby declared an excess of printing, and the same are hereby repealed.

*Sec. 2. This act shall be in force from and after its passage.*

## CHAPTER LXIX.

AN ACT to amend an act, entitled, "an act authorizing the appointment of pilots at the falls of the river Ohio in this state;" approved, February 7, 1825.

[APPROVED, FEBRUARY 14, 1839.]

Gov. appoint  
pilots.

Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the Governor be authorized to appoint and commission two skilful and experienced persons to act as pilots at the falls of the Ohio river, in addition to the four persons appointed under the provisions of the act, entitled, "an act authorizing the appointment of pilots at the falls of the river Ohio in this state," approved, February 7, 1825.

Pilots, how go-  
verned.

Sec. 2. All persons hereafter appointed as pilots by virtue of this act or the act to which this is amendatory, shall be governed by the provisions of said act, except as by this act otherwise provided for.

Duty of the b'rd.

Sec. 3. Should any person commissioned as a pilot remove from this state or from the immediate vicinity of the falls or neglect the duties or business of a pilot, or demand and receive a greater sum for his services as such pilot than is authorized by law, shall forfeit his appointment; proof whereof may be made before the board doing county business in the county of Clark; and said board, having satisfactory evidence of such removal, neglect or violation, shall cause the same to be certified to the Governor, who shall thereupon consider the appointment vacated, and appoint another person to fill such vacancy.

Penalty, &c.

Sec. 4. So much of the act to which this is an amendment, as entitles the informant to one half the penalties, recovered for a violation thereof, is hereby repealed, and hereafter all penalties so recovered shall be for the use of the county seminary of Clark county.

Sec. 5. This act to take effect and be in force from and after its passage, and shall be published in the Jeffersonville Courier, or some other newspaper printed in the county of Clark.

## CHAPTER LXX.

AN ACT to change the mode of doing county business in the county of Hendricks.

[APPROVED, JANUARY 23, 1839.]

Repeal.

Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That so much of the act to amend an act, entitled, "an act regulating the mode of doing county business

in certain counties therein named," approved, February 1, 1834, so far as the same relates to the county of Hendricks, be, and the same is hereby repealed.

Sec. 2. And it is hereby made the duty of the present Board, how board doing county business in said county, at their May session formed, to lay off said county into three equal commissioner's districts, numbered one, two, three, and the present board doing county business in said county, are hereby authorized to discharge the duties of the same, until the first Monday in August, eighteen hundred and thirty-nine, at which time the qualified voters of said county shall elect one commissioner in each of the aforesaid districts, who shall serve as such, and discharge all the duties of their office, agreeably to an act to regulate the mode of doing county business in the several counties in this state," approved, February, 17, 1838.

This act to be in force from and after its passage.

## CHAPTER LXXI.

AN ACT to amend an act, entitled, "an act to establish and regulate ferries," approved, February 10, 1831.

[APPROVED, FEBRUARY 18, 1839.]

Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That where ferries are established on each side of any river in this state, where any public road crosses or intersects the river, it shall not be lawful for such ferry owners, or ferry keepers, to fasten or keep their ferry craft where the public road intersects the river, so as in any way to obstruct the safe landing of the ferry boat from the opposite side of the river, and in case any ferry owner or ferry keeper shall violate the provisions of this act, he shall be liable to the same penalties as are prescribed for the obstruction of public roads and highways, recoverable by action of trespass, before any justice of the peace by the ferry owner or the ferry keeper on the opposite side of the river, and shall be liable to all damages that may accrue in consequence of such obstruction.

This act to take effect and be in force from and after its passage.

## CHAPTER LXXII.

AN ACT to amend an act, entitled, "an act regulating the jurisdiction and duties of justices of the peace;" approved, February 17, 1838.

[APPROVED, FEBRUARY 13, 1839.]

Jurisdiction of  
J. P. in Han-  
cock co.

Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the one hundred and third section of the act, "regulating the jurisdiction and duties of justices of the peace," approved, February 17, 1838, as far as the county of Hancock is concerned, shall be taken and so construed as to confine the duties and jurisdiction of constables, in the service of a summons, or capias ad respondentum, to the townships in which they may have been respectively chosen, except in cases excepted and enumerated in said section, 103.

## CHAPTER LXXIII.

AN ACT to change the mode of doing county business in Bartholomew county, and for other purposes.

[APPROVED, FEBRUARY 6, 1839.]

B'd of justice  
shall lay off  
comm'r dis'ts.

Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board of justices doing the business of Bartholomew county, at the ensuing February or March term of the county court of said county, shall proceed to lay off said county into three commissioner's districts.

Court of com'rs  
organized.

Sec. 2. That the mode of doing county business in said county after the said March term of said court, shall be by a board consisting of three commissioners, and not by a board consisting of the justices of the peace in said county.

Comm'r, when  
to be elected.

Sec. 3. That an election shall be had in said county at the usual place of holding elections in townships in said county, on the first Monday in April, eighteen hundred and thirty-nine, for the election of three commissioners to constitute a board for doing county business in said county, of which election it shall be the duty of the clerk of the court of said county to give notice by public advertisement in each township in said county at least ten days previous to said election.

Comm'r's duty.

Sec. 4. That said commissioners shall be commissioned and shall hold their offices for the same term of time and in the same way, and shall perform the same duties, and exercise the same powers, as if they had been elected on the first Monday in August, eighteen hundred and thirty-eight, under the provisions of an act, entitled, "an act to regulate the mode of doing county business in the several counties in this state," approved, February 17, 1838.

Sec. 5. That all laws and parts of laws contravening any of the provisions of this act, be, and the same are hereby repealed.

*This act to be in force from and after its passage.*

## CHAPTER LXXIV.

AN ACT relative to the location of the county seat of Jasper, and for other purposes.

[APPROVED, JANUARY 29, 1839.]

Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That George A. Spencer and Jacob Moyers of White county, and Solomon Hatfield of Fountain, and Samuel H. Garrison of the county of Warren, and William Simms of Tippecanoe, be and the same are hereby appointed commissioners agreeably to an act, entitled, "an act fixing the seats of justice in all new counties hereafter laid off;" the commissioners aforesaid shall meet at the house of Robert Alexander of Jasper county, on the first Monday of June next, and immediately proceed to discharge the duties hereafter assigned them.

Sec. 2. And it shall be the duty of the sheriff of Jasper county, either in person or writing to inform said commissioners of their appointment on or before the first Monday of May next, and for such services, shall be entitled to such compensation as the law requires.

Sec. 3. It shall be the duty of the commissioners in addition to the duties assigned them by the act to which this has reference, to examine the counties of Jasper and Newton, with a view of their being consolidated, and if after examination the commissioners are satisfied that the interest of the two counties would be promoted by the union of the same, they are hereby authorized to fix the seat of justice in said enlarged territory, taking into view the peculiar situation of said territory in regard to prairie, timber, water-privileges, and the known wishes of the citizens of different parts of Jasper county being attached to other counties; and the seat of justice, if consolidated, shall be called Newton.

Sec. 4. If, after examination, the commissioners should be of opinion that either county would be injured by the consolidation, they shall proceed to fix the county seat as provided by law in Jasper county, agreeably to its present boundaries.

Sec. 5. If, after examination, they shall be of opinion that the interest of the two counties would be promoted by the union of the same, from thenceforth the territory, known by the names of Jasper and Newton counties, shall be known as Jasper county.

*This act to be in force from and after its passage.*

## CHAPTER LXXV.

AN ACT to amend an act, entitled, "an act to authorize the loaning of the college funds :" approved, February 17, 1838.

[APPROVED, DECEMBER 31, 1838.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That from and after the passage of this act, the college funds, and all other funds authorized to be loaned, under the direction of the treasurer of state, as superintendent of the loan office, shall be loaned at the interest of nine per centum, per annum, payable in advance.

This act to take effect and be in force from and after its passage.

Loaned interest of 9 per cent.

## CHAPTER LXXVI.

AN ACT to amend an act, entitled, "an act incorporating congressional townships and providing for public schools therein :" approved, February 17, 1838.

[APPROVED, FEBRUARY 15, 1839.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That the school commissioner shall be authorized in loaning out any school money, which may come into his hands, to take as security therefor by mortgage, any town lots, where a regular and satisfactory chain of title can be traced; *Provided however,* That estimating the value of said town lots, improvements of a perishable nature shall not be taken into consideration.

*Sec. 2.* Said money to be loaned to any applicant therefor on the security aforesaid, upon the same terms and restrictions as are now provided for by the provisions of the act to which this is amendatory; all laws or parts of laws contravening the provisions of this act are hereby repealed.

This act to take effect and be in force from and after its passage.

Funds may be loaned on town lots mortgaged.

## CHAPTER LXXVII.

AN ACT to amend an act therein named.

[APPROVED, FEBRUARY 13, 1839.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That the act, entitled, an act supplemental to an act, entitled, an act to amend the act, entitled, "an act establishing a State Bank," approved, January, 1836, "providing for a branch of the State Bank east of the Lafayette branch and west of the Fort Wayne branch," approved, February 8, 1836, be and the same is so far amended as to change the style and number of said branch from the thirteenth to the fourteenth branch, and that said act, so amended, is hereby declared to be valid, any law to the contrary, notwithstanding.

This act to take effect and be in force from and after its passage.

## CHAPTER LXXVIII.

AN ACT to amend an act, entitled, "an act relative to county seminaries :" approved, February 17, 1838.

[APPROVED, JANUARY 29, 1839.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That the board of trustees of the county seminary of Tippecanoe county are authorized and empowered to borrow any amount of money, which, in their opinion, may be necessary for the erection, completion, and putting in operation a county seminary in said county.

*Sec. 2.* This act to take effect and be in force from and after its passage and publication in one of the newspapers printed in the town of Lafayette in said county.

## CHAPTER LXXIX.

AN ACT amendatory of an act relative to county boundaries.

[APPROVED, FEBRUARY 12, 1839.]

*Be it enacted by the General Assembly of the State of Indiana,* That the east line of the county of Rush, dividing the counties of Rush and Fayette, shall commence at the southeast corner of section twenty-eight, in township twelve north

Boundary, now changed.

of range eleven east, thence north, pursuing said section line to the line dividing townships fifteen and sixteen; all laws and parts of laws contravening the provisions of this act, be and the same are hereby repealed.

This act to be in force from and after its passage.

## CHAPTER LXXX.

AN ACT amendatory of an act, entitled, "an act relative to county boundaries."

[APPROVED, FEBRUARY 12, 1839.]

*Line between the counties of Rush & Fayette established.*  
*Be it enacted by the General Assembly of the State of Indiana,* That the east line of the county of Rush, dividing the counties of Rush and Fayette, shall commence at the south-east corner of section twenty-eight, in township twelve north of range eleven east, thence north pursuing said section line to the line dividing townships fifteen and sixteen.

All laws and parts of laws contravening the provisions of this act, be, and the same are hereby repealed.

This act to take effect and be in force from and after its passage.

## CHAPTER LXXXI.

AN ACT regulating the jurisdiction of justices of the peace in the county of Cass.

[APPROVED, FEBRUARY 14, 1839.]

*No person answer in any other township &c.*  
*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That hereafter no person who is a householder shall be bound to answer to any summons or other process, issued by any justice of the peace in the county of Cass, in any civil suit, in any township other than the one in which said defendant actually resides, unless there shall be no justice of the peace in such township who can legally issue such summons or other process, then and in that case it shall be lawful to commence such suit in the next township; *Provided however,* That either party shall have a right to change the venue as heretofore.

*Reservation.*  
*Sec. 2. Nothing in this act shall be so construed as to embrace any case of contracts entered into previous to the passage of this act.*

This act to take effect and be in force from and after its publication in the Logansport Telegraph, or in any other paper published in said town of Logansport.

## CHAPTER LXXXII.

AN ACT to amend an act, entitled, "an act regulating marriages;" approved, February 17, 1838.

[APPROVED, FEBRUARY 11, 1839.]

*Be it enacted by the General Assembly of the State of Indiana,* That the probate judges within their respective counties, be, and they are hereby authorized to join together as husband and wife, all who may apply to them according to the law prescribed in the act to which this is an amendment.

This act to be in force from and after its passage.

## LXXXIII.

AN ACT to amend the act, entitled, "an act to provide for electing county and township officers;" approved, February 17, 1838.

[APPROVED, FEBRUARY 15, 1839.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That when the term of service of any clerk of the circuit court, recorder or associate judge shall be about to expire, a poll shall be opened in each township in the county on the first Monday of August next preceding the expiration of such officer's term of service, which election and the returns thereof, shall be governed by the law regulating general elections.

*Sec. 2. Whenever the term of service of any justice of the peace is about to expire, it shall be the duty of the board doing county business in the proper county, at their term next preceding such expiration of such term of service, to order an election to supply such vacancy, which shall be governed in all respects as other elections of justices of the peace are governed.*

This act to be in force from and after its passage.

## CHAPTER LXXXIV.

AN ACT to amend an act, entitled, "an act relating to public roads and highways;" approved, February 17, 1838.

[APPROVED, FEBRUARY 13, 1839.]

*Supervisors except'd from performing military duty.*  
Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That supervisors of public roads and highways, in the county of Putnam, for their services as such, shall hereafter be exempted from performing military duty for and during the term of two years, except as are exempt by law from performing military service, in which case they shall be exempt from serving on juries, which shall be a full compensation for the several duties imposed upon them, and no other allowance whatever shall be made.

*May employ hands.*  
Sec. 2. The said supervisors shall be allowed the privilege of employing one or more of the hands required to perform labor in their several districts, to warn in the hands, for which it shall be the duty of the supervisor to allow him or them a credit of one dollar for each and every day thus employed.

*B'd appoint supervisors.*  
Sec. 3. *And be it further enacted,* That the board doing county business in the county of Putnam, shall at their March term in each year, appoint a supervisor in and for each road district in said county; all laws coming within the purview of this act, be, and the same are hereby repealed so far as relates to the said county of Putnam.

This act to be in force from and after its passage.

## CHAPTER LXXXV.

AN ACT for the benefit of the grand lodge of the Independent Order of Odd Fellows of Indiana.

[APPROVED, FEBRUARY 15, 1839.]

*Rights granted to independant order of odd fellows.*  
Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That all the rights, privileges, benefits and immunities granted and extended to congregations, religious societies and masonic lodges in the act to which this is an amendment, approved, February 10, 1831, be, and the same are hereby granted and extended to the grand lodge of the Independent Order of Odd Fellows of Indiana, and to the several lodges which now are, or hereafter may be subordinate to the said grand lodge.

This act is hereby declared a public act, and shall be in force from and after its publication in the Indiana Democrat.

## CHAPTER LXXXVI.

AN ACT to amend an act relative to county boundaries.

[APPROVED, FEBRUARY 15, 1839.]

Sec. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Gamaliel Garritson of the county of Floyd, and Henry O. Hedgecoxe of the county of Clark, be, and they are hereby appointed commissioners to settle and determine so much of the county boundary between the counties of Clark and Floyd, as lies between the two points following, to wit: commencing at a point in the south line of Washington county at the summit of the Silver creek knobs, thence southwardly with the extreme height of said knobs to a point where the extended sectional line dividing sections twenty four and twenty-five, in township numbered one, south in range numbered four east, strikes the summit of said knob.

Sec. 2. Said commissioners, after having been notified of the time to meet, the passage of this act, by the sheriffs of the respective counties, or by the reception of a copy of this act, and, having taken an oath before some person duly authorized to administer the same, faithfully and impartially to perform the duties required of them by this act, shall, on the first Monday of March next, or as soon thereafter as practicable, within two weeks from said day, proceed to the point of commencement as set forth in the first section of this act, and, if upon such examination they can locate and determine said boundary by sectional lines, so that no loss of territory shall happen to either county, they shall so determine said line; if, upon examination, said commissioners find that the adoption of sectional lines will reduce the territory in either county from what would be their contents by running a line with the summit of the knobs, they shall then survey and mark said boundary by a line on said summit between the points aforesaid.

Sec. 3. Said commissioners shall forthwith, after such determination or survey, make out duplicate maps and reports thereof, and file one copy of the same in the clerk's office of said counties of Clark and Floyd, which shall be immediately recorded by the clerks thereof, and from thenceforth shall be taken and considered the proper line dividing the counties of Clark and Floyd, between the two points set forth in the first section of this act; said commissioners are hereby authorized to call to their assistance a suitable number of persons as chain carriers and markers, who shall be sworn before entering upon their duties; and shall, at the time of making their report as aforesaid, file with said clerks an account for their services, and that of the chain carriers and markers, dividing the whole amount equally between said counties of Clark and Floyd; which by the board doing county business, shall be ordered to be paid; *Provided*, said accounts shall not exceed an amount usually paid for similar services.

Sec. 4. This act shall be in force from and after its publication in the Indiana Journal.

## CHAPTER LXXXVII.

AN ACT to regulate the jurisdiction of justices of the peace in Allen county.

[APPROVED, FEBRUARY 11, 1839.]

*Be it enacted by the General Assembly of the State of Indiana,* That hereafter no person who is a householder shall be bound to answer to any summons or other process, issued by any justice of the peace in Allen county, in any civil suit, in any township other than the one in which said defendant actually resides, unless there should be no justice in the said township who can legally issue such summons or other process, then and in that case it shall be lawful to commence such suit in the next nearest township; *Provided however,* That either party shall have the right to change the venue as heretofore.

This act to be in force and take effect from and after its publication in the Indiana Journal.

No householder  
to answer to  
summons.

When shall sit.  
next nearest township;

## CHAPTER LXXXVIII.

AN ACT changing the time of holding the Probate court in Vigo county.

[APPROVED, JANUARY 21, 1839.]

Repeal.

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That the Probate court of the county of Vigo shall sit on the third Mondays of February and May, August and November, and shall sit at each term two weeks if business require it.

*Sec. 2. Be it further enacted,* That all process of every description, which is made returnable to the second Monday of February next in said county, shall be returnable on the said third Monday; and all causes and proceedings in said court shall stand for trial on said third Monday in the same manner that they would have stood for trial on the second Monday had this act not been passed.

This act shall take effect and be in force from and after its passage.

## CHAPTER LXXXIX.

AN ACT to repeal a part of an act, entitled, "an act to provide for opening and repairing public roads and highways in the counties of Owen, Lawrence and Greene:" approved, February 1, 1834.

[APPROVED, JANUARY 23, 1839.]

*Be it enacted by the General Assembly of the State of Indiana,* That so much of the aforesaid act as affixes the penalty at fifty cents for failing to work on roads and highways, be, and the same is hereby repealed, so far as the county of Lawrence is concerned; and that the thirtieth section of an act, entitled, "an act relative to public roads and highways," approved, February 17, 1838, is hereby declared in force in said county of Lawrence.

This act to be in force from and after its passage.

## CHAPTER XC.

AN ACT to regulate the holding of Probate courts in Posey county.

[APPROVED, JANUARY 21, 1839.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That so much of an act, entitled, "an act changing the time of holding the circuit courts in certain counties therein named, and the probate court of Posey county," approved, January 23, 1834, as requires the probate court of the county of Posey to be holden on the fourth Mondays of February and August of each year, be, and the same is hereby repealed.

This act to take effect and be in force from and after its passage.

## CHAPTER XCI.

AN ACT<sup>2</sup> directing the leasing of the water power at the Wabash dam near Delphi.

[APPROVED, FEBRUARY 16, 1839.]

*Whereas,* By an act of the last General Assembly, the acting commissioner on the Wabash and Erie canal is required to cause to be improved and leased the water power, created by the great Wabash dam near Delphi; and, though the said dam is

Preamble.

now finished, and the improvement necessary to a profitable leasing thereof in a state of forwardness, the water power has not been offered to lease; whereby the state is deprived of the rents, and the surrounding country of the benefits to be derived from the machinery and manufacturing facilities this immense water power is calculated to produce; therefore,

*Be it enacted by the General Assembly of the State of Indiana,* That the acting commissioner, or person in charge of the Wabash and Erie canal be required to carry into effect the provisions of the act referred to, with as little delay as the different interests concerned will permit, and he is hereby directed to lease, or offer to be leased, such portions of said water power, on each side of the river, as can be leased at fair prices, on or before the first Monday in May next, subject to the rules, regulations, and restrictions required by law.

This act to take effect and be in force from and after its passage.

## CHAPTER XCII.

AN ACT to provide for a more uniform mode of doing township business in the county of Randolph.

[APPROVED, JANUARY 21, 1839.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That the provisions of an act, entitled, "an act to provide for a more uniform mode of doing township business in the several counties therein named," approved, February 17, 1838, be, and the same is hereby extended to the county of Randolph.

This act to be in force from and after its passage.

## CHAPTER XCIII.

AN ACT to create the office of private secretary to the Governor.

[APPROVED, FEBRUARY 16, 1838.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That there shall be one person appointed annually by the Governor, whose duty it shall be to do and perform all duties pertaining to the office of secretary of the Governor.

*Gov. shall appoint secretary.* Sec. 2. The person so appointed by the Governor, shall, before entering on the duties of his office, take an oath faithful-

ly to discharge the duties of his office, and for his services as secretary to the Governor, he shall receive the sum of one hundred and fifty dollars, to be paid quarterly by the treasurer of state out of any funds not otherwise appropriated.

Sec. 3. This act to take effect and be in force from and after its passage.

## CHAPTER XCIV.

AN ACT supplemental to the act to reduce the board of fund commissioners.

[APPROVED, FEBRUARY 18, 1839.]

*Sec. 1. Be it enacted by the General Assembly of the State of Indiana,* That the act, entitled, "an act to reduce the board of fund commissioners," approved, February 14, 1839, be, and the same is hereby declared to be in force from and after the passage thereof; and all acts done under said act, are hereby declared to be valid to all interests [intents] and purposes, in the same manner as if it had been provided by said act, that the same should be in force from its passage.

This act to be in force from and after its passage.

## CHAPTER XCV.

AN ACT to alter the boundary line of the counties of Carroll and White.

[APPROVED, FEBRUARY 14, 1839.]

*Be it enacted by the General Assembly of the State of Indiana,* That hereafter the Tippecanoe river shall be the western boundary of Carroll county, from where the north line of said county strikes the river, until said river strikes the section line dividing thirty-three and twenty-eight, in township twenty-six, and all the territory west of said river and north of said line in township twenty-six, and range three west, is hereby attached to the county of White, as intended by the act, entitled, "an act to alter the boundary line between Carroll and White," approved, February 4, 1837.

This act to be in force from and after its passage.

## CHAPTER XCVI.

AN ACT amendatory of an act, entitled, "an act relative to evidence," approved, February 17, 1838.

[APPROVED, FEBRUARY 12, 1839.]

*Be it enacted by the General Assembly of the State of Indiana,* That the deposition of members of the board of internal improvement, engineers, assistant engineers, rod men, and all other persons, in the regular employ of the state, connected with the public works, may be taken and read in evidence in the same manner as the depositions of judges and attorneys may be taken, by virtue of the fourteenth section of the act relative to evidence.

This act to be in force from and after its passage.

OFFICE OF SECRETARY OF STATE, *§*  
Indianapolis, March 19, 1839. *§*

*Indiana, to wit:*

I, William J. Brown, Secretary, of State do hereby certify that I have compared the foregoing printed acts with the original rolls now on file in my office, and find the same correctly printed, except the words included in brackets [thus] which are inserted to supply evident omissions.

WM. J. BROWN,  
Secretary of State.

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